

**CORRECTED**

1582L.18S

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

FOR

HOUSE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILLS NOS. 679 & 396

AN ACT

To repeal sections 26.740, 43.500, 43.503, 43.506, 43.521, 43.527, 43.530, 43.540, 43.543, 135.327, 168.071, 192.016, 207.050, 207.060, 208.152, 208.204, 210.025, 210.109, 210.110, 210.115, 210.145, 210.152, 210.160, 210.183, 210.201, 210.211, 210.518, 210.565, 210.760, 210.903, 210.909, 210.922, 210.937, 211.031, 211.032, 211.059, 211.171, 211.181, 211.321, 302.272, 352.400, 402.199, 402.200, 402.205, 402.215, 402.217, 453.020, 453.060, 453.110, 475.024, 491.075, 492.304, 537.046, 630.140, 630.167, 630.170, 630.210, and 660.317, RSMo, and to enact in lieu thereof eighty-five new sections relating to the state foster care and protective services for children, with penalty provisions.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

Section A. Sections 26.740, 43.500, 43.503, 43.506, 43.521, 43.527, 43.530, 43.540, 43.543, 135.327, 168.071, 192.016, 207.050, 207.060, 208.152, 208.204, 210.025, 210.109, 210.110,

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210.115, 210.145, 210.152, 210.160, 210.183, 210.201, 210.211, 210.518, 210.565, 210.760, 210.903, 210.909, 210.922, 210.937, 211.031, 211.032, 211.059, 211.171, 211.181, 211.321, 302.272, 352.400, 402.199, 402.200, 402.205, 402.215, 402.217, 453.020, 453.060, 453.110, 475.024, 491.075, 492.304, 537.046, 630.140, 630.167, 630.170, 630.210, and 660.317, RSMo, are repealed and eighty-five new sections enacted in lieu thereof, to be known as sections 37.700, 37.705, 37.710, 37.715, 37.725, 37.730, 43.500, 43.503, 43.506, 43.527, 43.530, 43.532, 43.540, 43.542, 43.543, 135.327, 168.071, 168.282, 168.283, 192.016, 207.050, 207.060, 207.085, 208.152, 208.204, 208.647, 210.025, 210.109, 210.110, 210.111, 210.112, 210.113, 210.115, 210.145, 210.147, 210.152, 210.160, 210.183, 210.187, 210.188, 210.201, 210.211, 210.482, 210.487, 210.518, 210.542, 210.565, 210.760, 210.762, 210.903, 210.909, 210.922, 211.031, 211.032, 211.059, 211.171, 211.181, 211.321, 302.272, 352.400, 402.199, 402.200, 402.205, 402.215, 402.217, 453.020, 453.060, 453.061, 453.110, 475.024, 491.075, 492.304, 516.600, 537.046, 630.097, 630.140, 630.167, 630.170, 630.210, 660.317, 1, 2, 3, 4, and 5, to read as follows:

37.700. As used in sections 37.700 to 37.725, the following terms mean:

(1) "Office", the office of the child advocate for children's protection and services within the office of administration, which shall include the child advocate and staff;

(2) "Recipient", any child who is receiving services from

the department of social services or the department of mental health.

37.705. 1. There is hereby established within the office of administration the "Office of Child Advocate For Children's Protection and Services", for the purpose of assuring that children receive adequate protection and care from services and programs offered by the department of social services. The child advocate shall report directly to the commissioner of the office of administration.

2. The office shall be administered by the child advocate, who shall be appointed jointly by the governor and the chief justice of the Missouri supreme court with the advice and consent of the senate by February 1, 2004. The child advocate shall hold office for a term of six years and shall continue to hold office until a successor has been duly appointed. The advocate shall act independently of the department of social services in the performance of his or her duties. The office of administration shall provide administrative support and staff as deemed necessary.

37.710. 1. The office shall have access to the following information:

(1) The names of all children in protective services, treatment, or other programs under the jurisdiction of the department of social services or the department of mental health, and their location;

(2) All written reports of child abuse and neglect; and

(3) All current records required to be maintained pursuant to chapter 210, RSMo.

2. The office shall have the authority:

(1) To communicate privately, by any means possible, with any child in treatment or under protective services and anyone working with the child, including the family, relatives, courts, employees of the department of social services and the department of mental health, and others providing treatment and services;

(2) To have access, including the right to inspect, copy and subpoena records held by the clerk of the juvenile or family court, law enforcement agencies, institutions, public or private, and other agencies, or persons with whom a particular child has been either voluntarily or otherwise placed for care, or has received treatment within or without the state;

(3) To work in conjunction with juvenile officers and guardian ad litem;

(4) To file amicus curiae briefs on behalf of the interests of the parent or child;

(5) To initiate meetings with the department of social services, the department of mental health, and juvenile officers;

(6) To take whatever steps are appropriate to see that persons are made aware of the services of the child advocate's office, its purpose, and how it can be contacted; and

(7) To apply for and accept grants, gifts and bequests of funds from other states, federal and interstate agencies and independent authorities, and private firms, individuals and

foundations, for the purpose of carrying out his or her lawful responsibilities. The funds shall be deposited with the general treasurer in a restricted receipt account established within the office to permit funds to be expended in accordance with the provisions of the grant or bequest.

37.715. 1. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of children of the departments' services relating to action, inaction, or decisions of providers or their representatives, of public or private child welfare agencies, of social service agencies, or of the courts which may adversely affect the health, safety, welfare, or rights of such recipient.

2. The office shall establish and implement procedures for resolution of complaints.

3. The office shall have the authority to make the necessary inquiries and review such information and records as the office deems necessary.

4. The office may recommend to the relevant governmental agency changes in the rules and regulations adopted or proposed by such governmental agency which do or may adversely affect the health, safety, welfare, or civil or human rights of any recipient. The office shall make recommendations on changes to any current policies and procedures. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to services

in the state and shall recommend to the department, courts, general assembly, and governor changes in such laws, regulations and policies deemed by the office to be appropriate.

5. The office shall inform recipients, their guardians or their families of their rights and entitlements under state and federal laws and rules and regulations by means of the distribution of educational materials and group meetings.

6. The office shall annually submit to the governor, the general assembly, and the Missouri supreme court a detailed report analyzing the work of the office of the child advocate for children's protection and services.

37.725. 1. Any files maintained by the advocate program shall be disclosed only at the discretion of the office having authority over the disposition of such files, except that the identity of any complainant or recipient shall not be disclosed by the office unless:

(1) Such complainant or recipient, or the complainant's or recipient's legal representative, consents in writing to such disclosure; or

(2) Such disclosure is required by court order.

2. Any statement or communication made by the office relevant to a complaint received by, proceedings before or activities of the office and any complaint or information made or provided in good faith by any person, shall be absolutely privileged and such person shall be immune from suit.

3. Any representative of the office conducting or

participating in any examination of a complaint who shall knowingly and willfully disclose to any person other than the office, or those authorized by the office to receive it, the name of any witness examined or any information obtained or given upon such examination, shall be guilty of a class A misdemeanor.

However, the office conducting or participating in any examination of a complaint shall disclose the final result of the examination with the consent of the recipient.

4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections 37.700 to 37.725, or where otherwise required by court order.

37.730. 1. Any program staff, whether an employee or an unpaid volunteer, shall be treated as a representative of the office. No representative of the office shall be held liable for good faith performance of his official duties under the provisions of sections 37.700 to 37.725 and shall be immune from suit for the good faith performance of such duties. Every representative of the office shall be considered a state employee pursuant to section 105.711, RSMo.

2. No reprisal or retaliatory action shall be taken against any recipient or employee of the departments or courts for any communication made or information given to the office. Any person who knowingly or willfully violates the provisions of this subsection shall be guilty of a class A misdemeanor.

43.500. As used in sections 43.500 to [43.530] 43.543, the following terms mean:

(1) "Administration of criminal justice", performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information, including fingerprint searches, photographs, and other indicia of identification;

[(1)] (2) "Central repository", the Missouri state highway patrol criminal records and identification division for compiling and disseminating complete and accurate criminal history records and for compiling, maintaining, and disseminating criminal incident and arrest reports and statistics;

[(2)] (3) "Committee", criminal records and justice information advisory committee;

[(3)] (4) "Criminal history record information", information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release;

[(4)] (5) "Final disposition", the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal



justice system;

(6) "Missouri charge code", a unique number assigned by the office of the state courts administrator to an offense for tracking and grouping offenses. Beginning January 1, 2005, the complete charge code shall consist of the digits assigned by the office of state courts administrator, the two digit national crime information center modifiers and a single digit designating attempt, accessory, or conspiracy. The only exception to the January 1, 2005, date shall be the courts that are not using the statewide court automation case management pursuant to section 476.055, RSMo; the effective date will be as soon thereafter as economically feasible for all other courts;

~~[(5)]~~ (7) "State offense cycle number", a [preprinted] unique number, supplied by or approved by the highway patrol, on the state criminal fingerprint card [which]. The offense cycle number is used to [identify each arrest which may include multiple offenses for which a person is fingerprinted. This number] link the identity of a person, through fingerprints, to one or many offenses for which the person is arrested or charged. The offense cycle number will be [associated with] used to track an offense incident from the date of arrest to the [date] final disposition when the offender exits from the criminal justice system[;

(6) "Without undue delay", as soon as possible but not later than thirty days after the criminal history event;

(7) "Administration of criminal justice", performance of

any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information, including fingerprint searches, photographs, and other indicia of identification].

43.503. 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to [43.530] 43.543.

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, charges, appropriate charge codes, and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied or approved by the highway patrol or electronically in a format and manner approved by the highway patrol. All such agencies shall also notify the central

repository of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue delay such fingerprints, charges, and descriptions to the central repository upon its behalf. In instances where an individual less than seventeen years of age is taken into custody for an offense which would be considered a felony if committed by an adult, the arresting officer shall take one set of fingerprints for the central repository and may take another set for inclusion in a local or regional automated fingerprint identification system. These fingerprints shall be taken on fingerprint cards which are plainly marked "juvenile card" and shall be provided by the central repository. The fingerprint cards shall be so constructed that only the fingerprints, unique identifying number, and the court of jurisdiction are made available to the central or local repository. The remainder of the card which bears the individual's identification and the duplicate unique number shall be provided to the court of jurisdiction. The appropriate portion of the juvenile fingerprint card shall be forwarded to the central repository and the courts without undue delay. The fingerprint information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. The juvenile fingerprint card shall be stored in a secure location, separate from all other fingerprint cards. In the event the fingerprints from this

card are found to match latent prints searched in the automated fingerprint identification system, the court of jurisdiction shall be so advised.

3. The prosecuting attorney of each county or the circuit attorney of a city not within a county shall notify the central repository on standard forms supplied by the highway patrol or in a manner approved by the highway patrol of all charges filed, including all those added subsequent to the filing of a criminal court case, and whether charges were not filed in criminal cases for which the central repository has a record of an arrest. All records forwarded to the central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, and charge code for the offense, and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

4. The clerk of the courts of each county or city not within a county shall furnish the central repository, on standard forms supplied by the highway patrol or in a manner approved by the highway patrol, with all final dispositions of [criminal] cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to [subsections 6 and 7 of this section] sections 43.500 to 43.506. Such information shall include, for each charge:

(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments

or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in the trial court;

(2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;

(3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and

(4) The offense cycle number of the offense, and the originating agency identifier number of the [reporting] sentencing court, using such numbers as assigned by the highway patrol.

5. The clerk of the courts of each county or city not within a county shall furnish to the department of corrections or the department of mental health court judgment and sentence documents and the state offense cycle number and the charge code of the offense[, ] which result in the commitment or assignment of an offender[, ] to the jurisdiction of the department of corrections or the department of mental health if the person is committed pursuant to chapter 552, RSMo. This information shall be reported to the department of corrections or the department of mental health at the time of commitment or assignment. If the offender was already in the custody of the department of corrections or the department of mental health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate department by

certified mail, return receipt requested[, within ten days of such disposition] or in a manner and format mutually agreed to within fifteen days of such disposition.

6. [After the court pronounces sentence, including an order of supervision or an order of probation granted for any offense which is required by statute to be collected, maintained, or disseminated by the central repository, or commits a person to the department of mental health pursuant to chapter 552, RSMo,] Information, fingerprints, and other indicia forwarded to the central repository, normally obtained from a person at the time of arrest, may be obtained at any time the subject is in the criminal justice system or committed to the department of mental health. A law enforcement agency or the department of corrections may fingerprint the person and obtain the necessary information at any time while the subject is in custody. If at the time of disposition the defendant has not been fingerprinted for the offense which is required by statute to be collected, maintained, or disseminated by the central repository, the court shall order a law enforcement agency to fingerprint immediately [all persons appearing before the court to be sentenced or committed who have not previously been fingerprinted for the same case] the defendant. The law enforcement agency shall submit such fingerprints to the central repository without undue delay and within thirty days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the

court clerk of the court ordering the subject fingerprinted.

7. The department of corrections and the department of mental health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, legal name change, or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections 43.500 to [43.530] 43.543 shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol.

8. In instances where an individual less than seventeen years of age and not currently certified as an adult, is taken into custody for an offense which would be a felony if committed by an adult, the arresting officer shall take fingerprints for the central repository. These fingerprints shall be taken on fingerprint cards supplied by or approved by the highway patrol or transmitted electronically in a format and manner approved by the highway patrol. The fingerprint cards shall be so constructed that the name of the juvenile shall not be made available to the central repository. The name and the unique number associated with the fingerprints and other pertinent information shall be provided to the court of jurisdiction by the

agency taking the juvenile into custody. The juvenile's fingerprints and other information shall be forwarded within fifteen days to the central repository and the courts. The fingerprint information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. In the event the fingerprints are found to match other tenprints or unsolved latent prints the central repository shall notify the submitting agency who shall notify the court of jurisdiction as per local agreement.

9. Upon certification of the individual as an adult, the court shall order a law enforcement agency to immediately fingerprint the individual. The law enforcement agency shall submit such fingerprints to the central repository within fifteen days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the court clerk of the court ordering the subject fingerprinted.

10. If the juvenile is acquitted of the crime and is no longer certified as an adult, the prosecuting attorney shall notify within fifteen days the central repository of the change of status of the juvenile. Records of a child who has been fingerprinted and photographed after being taken into custody shall be closed records as provided pursuant to section 610.100, RSMo, if a petition has not been filed within thirty days of the date that the child was taken into custody; and if a petition for



the child has not been filed within one year of the date the child was taken into custody, any records relating to the child concerning the alleged offense may be expunged under the procedures in sections 610.122 to 610.126, RSMo.

43.506. 1. Those offenses considered reportable for the purposes of sections 43.500 to [43.530] 43.543 include all felonies and serious or aggravated misdemeanors consistent with the reporting standards established by the National Crime Information Center, Federal Bureau of Investigation, for the Federal Interstate Identification Index System. In addition, all cases arising pursuant to sections 566.010 to 566.141, RSMo, where the defendant pleads guilty to an offense involving a child under seventeen years of age and the court imposes a suspended imposition of sentence shall be reported. The following types of offenses shall not be considered reportable for the purposes of sections 57.403, RSMo, 43.500 to [43.530] 43.543, and 595.200 to 595.218, RSMo: disturbing the peace, curfew violation, loitering, false fire alarm, disorderly conduct, nonspecific charges of suspicion or investigation, and general traffic violations and all misdemeanor violations of the state wildlife code. All violations for driving under the influence of drugs or alcohol are reportable. All offenses considered reportable shall be reviewed annually and noted in the Missouri charge code manual established in section 43.512. All information collected pursuant to sections 43.500 to [43.530] 43.543 shall be available only as set forth in section 610.120, RSMo.

2. [With the exception of the manual reporting of arrests and fingerprints by law enforcement agencies as noted in subsection 2 of section 43.503, and notwithstanding subsections 2 to 7 of section 43.503,] Law enforcement agencies, court clerks, prosecutors and custody agencies may report required information by electronic medium either directly to the central repository or indirectly to the central repository via other criminal justice agency computer systems in the state with the approval of the [advisory committee] highway patrol based upon standards established by the advisory committee.

3. In addition to the repository of fingerprint records for individual offenders and applicants, the central repository of criminal history and identification records for the state shall maintain a repository of latent prints, palm prints, and other prints submitted to the repository.

43.527. For purposes of sections 43.500 to [43.530] 43.543 all federal and nonstate of Missouri agencies and persons shall pay for criminal records checks, fingerprint searches, and any of the information as defined in subdivision (3) of section 43.500, when such information is not related to the administration of criminal justice. There shall be no charge for information, supplied to criminal justice agencies, for the administration of criminal justice. For purposes of sections 43.500 to [43.530] 43.543 the administration of criminal justice is defined in subdivision (7) of section 43.500 and shall be available only as set forth in section 610.120, RSMo.

43.530. For each request requiring the payment of a fee received by the central repository, [as defined in subdivision (1) of section 43.500,] the requesting entity shall pay a fee of not more than five dollars per request for criminal history record information not based on a fingerprint search and pay a fee of not more than fourteen dollars per request for [classification and search of fingerprints] criminal history record information based on a fingerprint search. Each such request shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, or money order payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in [section 43.527] sections 43.500 to 43.543, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

43.532. 1. Criminal history and identification records obtained from the central repository shall be used solely for the purpose for which they were obtained. The subject of the record shall be afforded the opportunity to challenge the correctness, accuracy, and completeness of a criminal history record.

2. The central records repository shall have authority to engage in the practice of collecting, assembling, or disseminating criminal history record information for the purpose of retaining manually or electronically stored criminal history information. Any person obtaining criminal history record information from the central repository under false pretenses, advertise or engage in the practice of collecting, assembling, or disseminating as a business enterprise other than for the purpose of furnishing criminal history information to the authorized requestor for its intended purpose is guilty of a class A misdemeanor.

43.540. 1. As used in this section, the following terms mean:

(1) "Authorized state agency", a division of state government or an office of state government designated by the statutes of this state to issue or renew a license, permit, certification, or registration of authority to a qualified entity;

(2) "Care", the provision of care, treatment, education, training, instruction, supervision, or recreation;

[(1)] (3) "Criminal record review", [a request to the highway patrol for information concerning any criminal history record for a felony or misdemeanor and any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo] a review of the criminal history records maintained by the highway patrol in the criminal records repository;

(4) "National criminal record review", a review of the criminal history records maintained by the Federal Bureau of Investigation;

[(2)] (5) "Patient or resident", a person who by reason of [aging] age, illness, disease, or physical or mental infirmity receives or requires care or services furnished by a provider, as defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive hours;

[(3) "Patrol", the Missouri state highway patrol;

(4)] (6) "Provider", any [licensed day care home, licensed day care center, licensed child-placing agency, licensed residential care facility for children, licensed group home, licensed foster family group home, licensed foster family home or any operator licensed pursuant to chapter 198, RSMo, any employer of nurses or nursing assistants for temporary or intermittent placement in health care facilities or any entity licensed pursuant to chapter 197, RSMo;] person who:

(a) Is employed by or seeks employment with a qualified entity; or

(b) Volunteers or seeks to volunteer with a qualified entity; or

(c) Owns or operates a qualified entity; and

(d) Has or may have unsupervised access to children, the elderly, or persons with disabilities;

(7) "Qualified entity", a person, business, or organization, whether public or private, for profit, not-for-profit, or voluntary, that provides care, placement, or educational services, for children, the elderly or persons with disabilities as patients or residents, including a business or organization that licenses or certifies others to provide care or placement services;

[(5)] (8) "Youth services agency", any public or private agency, school, or association which provides programs, care or treatment for or which exercises supervision over minors.

2. [Upon receipt of a written request from a private investigatory agency, a youth service agency or a provider, with the written consent of the applicant, the highway patrol shall conduct a criminal record review of an applicant for a paid or voluntary position with the agency or provider if such position would place the applicant in contact with minors, patients or residents.

3. Any request for information made pursuant to the provisions of this section shall be on a form provided by the highway patrol and shall be signed by the person who is the subject of the request.

4. The patrol shall respond in writing to the youth service agency or provider making a request for information pursuant to this section and shall inform such youth service agency or provider of the address and offense for which the offender registered pursuant to sections 589.400 to 589.425, RSMo, and the

nature of the offense, and the date, place and court for any other offenses contained in the criminal record review.

Notwithstanding any other provision of law to the contrary, the youth service agency or provider making such request shall have access to all records of arrests resulting in an adjudication where the applicant was found guilty or entered a plea of guilty or nolo contendere in a prosecution pursuant to chapter 565, RSMo, sections 566.010 to 566.141, RSMo, or under the laws of any state or the United States for offenses described in sections 566.010 to 566.141, RSMo, or chapter 565, RSMo, during the period of any probation imposed by the sentencing court.

5. Any information received by a provider or a youth services agency pursuant to this section shall be used solely for the provider's or youth service agency's internal purposes in determining the suitability of an applicant or volunteer. The information shall be confidential and any person who discloses the information beyond the scope allowed in this section is guilty of a class A misdemeanor. The patrol shall inform, in writing, the provider or youth services agency of the requirements of this subsection and the penalties provided in this subsection at the time it releases any information pursuant to this section.] A qualified entity may obtain a criminal record review of a provider from the highway patrol by furnishing information on forms and in the manner approved by the highway patrol.

3. The information shall include:

- (1) A valid Social Security number;
  - (2) Two sets of fingerprints of the provider;
  - (3) A statement signed by the provider which contains:
    - (a) The provider's name, address, and date of birth;
    - (b) Whether or not the provider has been convicted of or has pled guilty to a crime which includes a suspended imposition of sentence;
    - (c) If the provider has been convicted of or has pled guilty to a crime, a description of the crime, and the particulars of the conviction or plea;
    - (d) The authority of the qualified entity to check the provider's criminal history;
    - (e) The right of the provider to review the report received by the qualified entity;
    - (f) The right of the provider to challenge the accuracy of the report. If the challenge is to the accuracy of the criminal record review, the challenge shall be made to the highway patrol.
4. A qualified entity may request a criminal record review and a national criminal record review of a provider through an authorized state agency. No authorized state agency is required by this section to process state or national criminal record reviews for a qualified entity.
5. The authorized state agency shall forward the required forms and fees to the highway patrol. The results of the record review shall be forwarded to the authorized state agency who will notify the qualified entity. The authorized state agency may



assess a fee to the qualified entity to cover the cost of handling the criminal record review and may establish an account solely for the collection and dissemination of fees associated with the criminal record reviews.

6. Any information received by an authorized state agency or a qualified entity pursuant to the provisions of this section shall be used solely for the internal purposes of determining the suitability of a provider. All criminal record check information shall be confidential and any person who discloses the information beyond the scope allowed is guilty of a class A misdemeanor.

7. The highway patrol shall make available or approve the necessary forms, procedures, and agreements necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

43.542. In order to facilitate the authorized interstate

exchange of criminal history information for non criminal justice purposes to adopt the National Crime Prevention and Privacy Compact, 42 U.S.C. 14616, the general assembly approves and adopts the compact. The chief administrator of the state's criminal history records repository shall execute the compact on behalf of the state of Missouri.

43.543. [Any state agency listed in section 621.045, RSMo, or any state agency which provides programs, care or treatment for or which exercises supervision over minors shall submit two sets of fingerprints for any person seeking employment with such agency or provider or for any person who is seeking the issuance or renewal of a license, permit or certificate of registration or authority from such agency, for the purpose of checking the person's prior criminal history when the state agency determines a nationwide check is warranted. The fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual.] Any state agency listed in section 621.045, RSMo, the division of professional registration of the department

of economic development, the department of social services, the state supreme court, the department of elementary and secondary education, the Missouri lottery, and the gaming commission may for persons seeking employment with such agency or issuance or renewal of a license, permit, certificate, or registration of authority from such agency, or any state agency or committee which is authorized by state statute or executive order to screen applicants or candidates seeking or considered for employment, assignment, or appointment to a position within state government; or the police officers standards and training commission pursuant to chapter 630, RSMo, may for persons not employed by a criminal justice agency who seek enrollment or access into a certified POST training academy police school; or law enforcement agencies may for persons seeking issuance or renewal of a license, permit, certificate, or registration to purchase or possess a firearm; shall submit two sets of fingerprints to the highway patrol. Such fingerprints shall be used by the highway patrol to search the criminal records repository and the second set shall be submitted to the Federal Bureau of Investigation to be used for searching the federal criminal history files if necessary. The fingerprints shall be submitted on forms and in the manner prescribed by the highway patrol. Fees assessed for the searches shall be paid by the applicant or in the manner prescribed by the highway patrol. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the

state agency making the record request.

135.327. 1. Any person residing in this state who legally adopts a special needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

2. Any person residing in this state who proceeds in good faith with the adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs

child that is adopted.

3. Individuals and business entities may claim a tax credit for their total nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the credit shall be allowed when the child is placed in the home. A claim for the remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits shall not exceed the maximum limit of ten thousand dollars per child. [The cumulative amount of tax credits which may be claimed by taxpayers for nonrecurring adoption expenses in any one fiscal year shall not exceed two million dollars.]

4. Notwithstanding any provision of law to the contrary, any individual or business entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of the amount sold.

168.071. 1. The state board of education may refuse to issue or renew a certificate, or may, upon hearing, discipline the holder of a certificate of license to teach for the following causes:

(1) A certificate holder or applicant for a certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude under the laws of this state, any other state, of the United States, or any other country, whether or not sentence is imposed;

(2) The certification was obtained through use of fraud,

deception, misrepresentation or bribery;

(3) There is evidence of incompetence, immorality, or neglect of duty by the certificate holder;

(4) A certificate holder has been subject to disciplinary action relating to certification issued by another state, territory, federal agency, or country upon grounds for which discipline is authorized in this section; or

(5) If charges are filed by the local board of education, based upon the annulling of a written contract with the local board of education, for reasons other than election to the general assembly, without the consent of the majority of the members of the board that is a party to the contract.

2. A public school district may file charges seeking the discipline of a holder of a certificate of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, including annulment of a written contract. Charges shall be in writing, specify the basis for the charges, and be signed by the chief administrative officer of the district, or by the president of the board of education as authorized by a majority of the board of education. The board of education may also petition the office of the attorney general to file charges on behalf of the school district for any cause other than annulment of contract, with acceptance of the petition at the discretion of the attorney general.

3. The department of elementary and secondary education may file charges seeking the discipline of a holder of a certificate

of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall be in writing, specify the basis for the charges, and be signed by legal counsel representing the department of elementary and secondary education.

4. If the underlying conduct or actions which are the basis for charges filed pursuant to this section are also the subject of a pending criminal charge against the person holding such certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel under the fifth amendment of the Constitution of the United States. Based upon such a request, no hearing shall be held until after a trial has been completed on this criminal charge.

5. The certificate holder shall be given not less than thirty days' notice of any hearing held pursuant to this section.

6. Other provisions of this section notwithstanding, the certificate of license to teach shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate holder or applicant has pleaded guilty to or been found guilty of any of the following offenses established pursuant to Missouri law or offenses of a similar nature established under the laws of any other state or of the United States, or any other country, whether or not the sentence is imposed:

(1) Any dangerous felony as defined in section 556.061, RSMo, or murder in the first degree;

(2) Any of the following sexual offenses: rape; statutory rape in the first degree; statutory rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first degree; statutory sodomy in the second degree; child molestation in the first degree; child molestation in the second degree; deviate sexual assault; sexual misconduct involving a child; sexual misconduct in the first degree; [or] sexual abuse; enticement of a child; or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest; abandonment of child in the first degree; abandonment of child in the second degree; endangering the welfare of a child in the first degree; abuse of a child; child used in a sexual performance; promoting sexual performance by a child; or trafficking in children; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree; promoting obscenity in the second degree when the penalty is enhanced to a class D felony; promoting child pornography in the first degree; promoting child pornography in the second degree; possession of child pornography in the first degree; possession of child pornography in the second degree; furnishing child pornography to a minor; furnishing pornographic materials to minors; or coercing acceptance of obscene material.

7. When a certificate holder pleads guilty or nolo contendere to, or is found guilty of any offense that would authorize the state board of education to seek discipline against



a certificate of license to teach, the local board of education or the department of elementary and secondary education shall immediately provide written notice to the state board of education and the attorney general regarding the plea of guilty or finding of guilt.

[7.] 8. The certificate holder whose certificate was revoked pursuant to subsection 6 of this section may appeal such revocation to the state board of education. Notice of this appeal must be received by the commissioner of education within ninety days of notice of revocation pursuant to this subsection. Failure of the certificate holder to notify the commissioner of the intent to appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner of education, with the final decision made by the state board of education, based upon the record of that hearing. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

[8.] 9. In the case of any certificate holder who has surrendered or failed to renew his or her certificate of license to teach, the state board of education may refuse to issue or renew, or may suspend or revoke, such certificate for any of the reasons contained in this section.

[9.] 10. In those cases where the charges filed pursuant to this section are based upon an allegation of misconduct

involving a minor child, the hearing officer may accept into the record the sworn testimony of the minor child relating to the misconduct received in any court or administrative hearing.

[10.] 11. Hearings, appeals or other matters involving certificate holders, licensees or applicants pursuant to this section may be informally resolved by consent agreement or agreed settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated by the state board of education.

[11.] 12. The final decision of the state board of education is subject to judicial review pursuant to sections 536.100 to 536.140, RSMo.

[12.] 13. A certificate of license to teach to an individual who has been convicted of a felony or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only upon motion of the state board of education adopted by a unanimous affirmative vote of those members present and voting.

168.282. Sections 37.700 to 37.725, 168.283, 207.085, 210.112, 210.113, 210.147, 210.160, 210.482, 210.487, 210.565, 211.031, and 211.321, RSMo, shall be known and may be cited as the "Dominic James Memorial Foster Care Reform Act of 2003".

168.283. 1. No person employed by a school after January 1, 2004, and no person employed by a school for less than two years who has any negative history in his or her personnel file with the school, including but not limited to, administrators,

teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, nurses, and bus drivers, shall have unsupervised contact with pupils until a criminal history background check has been conducted. The results of the background check shall be sent to the employing school district. Any person required to submit to a criminal background check pursuant to this section shall be required to submit to the Federal Bureau of Investigation background check, but shall register with the family care safety registry and access line pursuant to sections 210.900 to 210.937 in lieu of the required highway patrol background check.

2. To facilitate the criminal history background check on any person employed by the school, such person shall submit two sets of fingerprints collected pursuant to standards determined by the highway patrol. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

3. Any fees for the state criminal history record information pursuant to section 43.530, RSMo, and for the federal criminal history record by the Federal Bureau of Investigation shall be paid by the employee. The department shall distribute the fees collected for the state and federal criminal histories to the highway patrol.

4. The employee may be reimbursed by the employing school district if the school district policy provides for reimbursement

intended for state and federal criminal history information pursuant to section 43.530, RSMo.

5. If, as a result of the criminal history background check required by this section, it is determined that the holder of a certificate issued pursuant to section 168.021 has been charged with, pled guilty or nolo contendere to, or been found guilty of a crime under the laws of this state, any other state, the United States, or any other country, regardless of imposition of sentence, such information shall be reported to the department of elementary and secondary education.

6. Any school official making a report to the department of elementary and secondary education in conformity with this section shall not be subject to civil liability for such action.

7. The state board of education may promulgate rules for criminal history background checks made pursuant to this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

8. This section shall become effective January 1, 2004.

192.016. 1. The department of health and senior services shall establish a putative father registry which shall record the names and addresses of:

(1) Any person adjudicated by a court of this state to be the father of a child born out of wedlock;

(2) Any person who has filed with the registry before or after the birth of a child out of wedlock, a notice of intent to

claim paternity of the child;

(3) Any person adjudicated by a court of another state or territory of the United States to be the father of an out-of-wedlock child, where a certified copy of the court order has been filed with the registry by such person or any other person.

2. A person filing a notice of intent to claim paternity of a child or an acknowledgment of paternity shall file the acknowledgment affidavit form developed by the state registrar which shall include the minimum requirements prescribed by the Secretary of the United States Department of Health and Human Services pursuant to 42 U.S.C. Section 652(a)(7).

3. A person filing a notice of intent to claim paternity of a child shall notify the registry of any change of address.

4. A person who has filed a notice of intent to claim paternity may at any time revoke a notice of intent to claim paternity previously filed therewith and, upon receipt of such notification by the registry, the revoked notice of intent to claim paternity shall be deemed a nullity nunc pro tunc.

5. An unrevoked notice of intent to claim paternity of a child may be introduced in evidence by any party, other than the person who filed such notice, in any proceeding in which such fact may be relevant.

6. Lack of knowledge of the pregnancy does not excuse failure to timely file pursuant to paragraph (b) or (c) of subdivision (2) of subsection 3 of section 453.030, RSMo.

7. The department shall, upon request and within two business days of such request, provide the names and addresses of persons listed with the registry to any court or authorized agency, or entity or person named in section 453.014, RSMo, and such information shall not be divulged to any other person, except upon order of a court for good cause shown.

[7.] 8. The department of health and senior services shall:

(1) Prepare forms for registration of paternity and an application for search of the putative father registry;

(2) Produce and distribute a pamphlet or publication informing the public about the putative father registry, including the procedures for voluntary acknowledgment of paternity, the consequences of acknowledgment and failure to acknowledge paternity pursuant to section 453.010, RSMo, [and the address of] a copy of the statement in subsection 9 of this section, and a detachable form meeting the requirements of subsection 2 of this section addressed to the putative father registry. Such pamphlet or publication shall be made available for distribution at all offices of the department of health and senior services. The department shall also provide such pamphlets or publications to the department of social services, hospitals, libraries, medical clinics, schools, universities, and other providers of child-related services upon request;

(3) Provide information to the public at large by way of general public service announcements, or other ways to deliver

information to the public about the putative father registry and its services.

9. Pursuant to subdivision (2) of subsection 8 of this section, the following statement shall be contained in any pamphlet or publication informing the public about the putative father registry:

STATEMENT:

"DOES THE PUTATIVE FATHER REGISTRY APPLY TO ME?

Have you had protected or unprotected sexual intercourse with a woman who was not your wife within the last year?

IF YOU ANSWERED "YES" TO THIS QUESTION, THE PUTATIVE FATHER REGISTRY APPLIES TO YOU. MISSOURI LAW ASSUMES THAT YOU KNOW A CHILD MAY BE CONCEIVED IF YOU HAVE SEXUAL INTERCOURSE WITH A WOMAN AND REQUIRES YOU TO TAKE ACTION TO PROTECT YOUR RIGHTS IN ANY SUCH CHILD.

SHOULD I FILE THE ATTACHED CARD WITH THE PUTATIVE FATHER REGISTRY?

1. If a woman you have had sex with has a child, do you want to know if that child is yours?

2. If a woman you have had sex with has a child, do you want to claim that child as your own?

3. Do you want to be notified if a child born to that woman is placed for adoption?

IF YOU ANSWERED "YES" TO ANY OF THESE QUESTIONS, THEN YOU MUST FOLLOW THE INSTRUCTIONS IN THIS PAMPHLET. FAILURE TO FOLLOW THE INSTRUCTIONS PRESCRIBED BY LAW WILL JEOPARDIZE YOUR RIGHTS.

WHAT DO I HAVE TO DO TO PROTECT MY RIGHTS?

Under Missouri law, a man who conceives a child with a woman who is not his wife has the right to be notified if that child is placed for adoption. He also has the right to challenge the adoption if he desires and assume responsibility for that child. However, in order to have these rights, a father MUST follow the instructions below.

If you want to be notified of and have the ability to allow or challenge the adoption of a child you believe to be yours, you MUST do the following THREE things:

1. Fill out and send the detachable card attached to this pamphlet to the Registry before the child is born OR within 15 days after the child is born.

THE FACT THAT YOU DID NOT KNOW THE MOTHER WAS PREGNANT IS NOT AN EXCUSE FOR FAILURE TO FILE THE ATTACHED CARD!

2. Inform the Putative Father Registry of any change of address.

3. File a paternity case in court to establish that you are the child's father with a court before the child is born OR within 15 days after the child is born.

THE FACT THAT YOU DID NOT KNOW THE MOTHER WAS PREGNANT IS NOT AN EXCUSE FOR FAILURE TO FILE A CASE TO ESTABLISH THAT YOU ARE THE CHILD'S FATHER!"



207.050. In every county there ~~[shall]~~ may be established a county family services commission to consist of four persons, two from each of the two major political parties, to be selected by the director of social services from a list submitted to the director of the department of social services by the county commission, consisting of double the number of appointments to be made. Each member of the county family services commission shall serve for a term of four years. Vacancies shall be filled in the same way in which the original appointment was made. [If the county commission fails or refuses to submit a list to the director of social services as required by this section for the appointment of members of the county family services commission within ten days after such appointments are to be made the director of social services shall make such appointments as may be necessary from a list prepared by the director of social services.] The duties of the county family services commission shall be advisory in nature with the power to examine the records of any case pending within their county and to make recommendations thereon. They shall serve without compensation, but shall be paid their traveling expenses and other necessary expense in the performance of their duty. No elective officer shall be appointed as a member of the county family services commission, and upon becoming a candidate for any elective office, such member of the county family services commission shall forthwith forfeit his or her position on the commission. Duties imposed by this law upon the several county commissions

shall be performed in the city of St. Louis by the board of estimate and apportionment.

207.060. 1. The director of the family [services shall establish] support division shall operate and maintain on a full-time basis a county office in every county, which may be in the charge of a county welfare director who shall have been a resident of the state of Missouri for a period of at least two years immediately prior to taking office and whose salary shall be paid from funds appropriated for the family support division [of family services].

2. For the purpose of establishing and maintaining county offices, or carrying out any of the duties of the division of family services, the director of family services may enter into agreements with any political subdivision of this state, and as a part of such agreement, may accept moneys, services, or quarters as a contribution toward the support and maintenance of such county offices. Any funds so received shall be payable to the director of revenue and deposited in the proper special account in the state treasury, and become and be a part of state funds appropriated for the use of the division of family services.

3. Other employees in the county offices shall be employed with due regard to the population of the county, existing conditions and purpose to be accomplished. Such employees shall be paid as are other employees of the division of family services.

207.085. 1. Any employee of the division of family

services who is involved with child protective services and purposely, knowingly, and willfully violates a stated or written policy of the division, any rule promulgated by the division, or any state law directly related to the child abuse and neglect activities of the division shall be dismissed if the violation directly results in serious physical injury or death. The provisions of this section shall apply to merit system employees of the division, as well as all other employees of the division, and upon a showing of a violation, such employees shall be dismissed for cause pursuant to section 36.380, RSMo.

2. The provisions of sections 660.019 to 660.021, RSMo, shall apply to this section. If an employee is responsible for assignments in excess of specified caseload standards established in section 660.020, RSMo, and the employee purposely, knowingly, and willfully violates a stated or written policy of the division and the violation directly results in serious physical injury or death, any rule promulgated by the division, or any state law directly related to the child abuse and neglect activities of the division, the employee's good faith efforts to follow the stated or written policies of the division, the rules promulgated by the division, or the state laws directly related to the child abuse and neglect activities of the division shall be a mitigating factor in determining whether an employee is dismissed pursuant to subsection 1 of this section.

3. Any juvenile officer or employee of a juvenile office who purposely, knowingly, and willfully acts or neglects to act

in a manner that directly results in serious physical injury or death to a child shall be dismissed pursuant to supreme court rules governing court personnel.

208.152. 1. Benefit payments for medical assistance shall be made on behalf of those eligible needy persons who are unable to provide for it in whole or in part, with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the division of medical services, unless otherwise hereinafter provided, for the following:

(1) Inpatient hospital services, except to persons in an institution for mental diseases who are under the age of sixty-five years and over the age of twenty-one years; provided that the division of medical services shall provide through rule and regulation an exception process for coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional activities study (PAS) or the Medicaid children's diagnosis length-of-stay schedule; and provided further that the division of medical services shall take into account through its payment system for hospital services the situation of hospitals which serve a disproportionate number of low-income patients;

(2) All outpatient hospital services, payments therefor to be in amounts which represent no more than eighty percent of the lesser of reasonable costs or customary charges for such services, determined in accordance with the principles set forth

in Title XVIII A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the division of medical services may evaluate outpatient hospital services rendered under this section and deny payment for services which are determined by the division of medical services not to be medically necessary, in accordance with federal law and regulations;

(3) Laboratory and X-ray services;

(4) Nursing home services for recipients, except to persons in an institution for mental diseases who are under the age of sixty-five years, when residing in a hospital licensed by the department of health and senior services or a nursing home licensed by the division of aging or appropriate licensing authority of other states or government-owned and -operated institutions which are determined to conform to standards equivalent to licensing requirements in Title XIX, of the federal Social Security Act (42 U.S.C. 301, et seq.), as amended, for nursing facilities. The division of medical services may recognize through its payment methodology for nursing facilities those nursing facilities which serve a high volume of Medicaid patients. The division of medical services when determining the amount of the benefit payments to be made on behalf of persons under the age of twenty-one in a nursing facility may consider nursing facilities furnishing care to persons under the age of twenty-one as a classification separate from other nursing facilities;

(5) Nursing home costs for recipients of benefit payments under subdivision (4) of this section for those days, which shall not exceed twelve per any period of six consecutive months, during which the recipient is on a temporary leave of absence from the hospital or nursing home, provided that no such recipient shall be allowed a temporary leave of absence unless it is specifically provided for in his plan of care. As used in this subdivision, the term "temporary leave of absence" shall include all periods of time during which a recipient is away from the hospital or nursing home overnight because he is visiting a friend or relative;

(6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or elsewhere;

(7) Dental services;

(8) Services of podiatrists as defined in section 330.010, RSMo;

(9) Drugs and medicines when prescribed by a licensed physician, dentist, or podiatrist;

(10) Emergency ambulance services and, effective January 1, 1990, medically necessary transportation to scheduled, physician-prescribed nonelective treatments. The department of social services may conduct demonstration projects related to the provision of medically necessary transportation to recipients of medical assistance under this chapter. Such demonstration projects shall be funded only by appropriations made for the purpose of such demonstration projects. If funds are

appropriated for such demonstration projects, the department shall submit to the general assembly a report on the significant aspects and results of such demonstration projects;

(11) Early and periodic screening and diagnosis of individuals who are under the age of twenty-one to ascertain their physical or mental defects, and health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby. Such services shall be provided in accordance with the provisions of section 6403 of P.L.53 101-239 and federal regulations promulgated thereunder;

(12) Home health care services;

(13) Optometric services as defined in section 336.010, RSMo;

(14) Family planning as defined by federal rules and regulations; provided, however, that such family planning services shall not include abortions unless such abortions are certified in writing by a physician to the Medicaid agency that, in his professional judgment, the life of the mother would be endangered if the fetus were carried to term;

(15) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids, and wheelchairs;

(16) Inpatient psychiatric hospital services for individuals under age twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

(17) Outpatient surgical procedures, including presurgical diagnostic services performed in ambulatory surgical facilities

which are licensed by the department of health and senior services of the state of Missouri; except, that such outpatient surgical services shall not include persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended, if exclusion of such persons is permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

(18) Personal care services which are medically oriented tasks having to do with a person's physical requirements, as opposed to housekeeping requirements, which enable a person to be treated by his physician on an outpatient, rather than on an inpatient or residential basis in a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be rendered by an individual not a member of the recipient's family who is qualified to provide such services where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a licensed nurse. Persons eligible to receive personal care services shall be those persons who would otherwise require placement in a hospital, intermediate care facility, or skilled nursing facility. Benefits payable for personal care services shall not exceed for any one recipient one hundred percent of the average statewide charge for care and treatment in an intermediate care facility for a comparable period of time;

(19) Mental health services. The state plan for providing



medical assistance under Title XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental health services when such services are provided by community mental health facilities operated by the department of mental health or designated by the department of mental health as a community mental health facility or as an alcohol and drug abuse facility or as a child-serving agency within the comprehensive children's mental health service system established in section 630.097, RSMo.

(a) The department of mental health shall establish by administrative rule the definition and criteria for designation as a community mental health facility and for designation as an alcohol and drug abuse facility. Such mental health services shall include:

[(a)] a. Outpatient mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

[(b)] b. Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented,

monitored, and revised under the auspices of a therapeutic team as a part of client services management;

[(c)] c. Rehabilitative mental health and alcohol and drug abuse services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management. As used in this section, "mental health professional" and "alcohol and drug abuse professional" shall be defined by the department of mental health pursuant to duly promulgated rules. With respect to services established by this subdivision, the department of social services, division of medical services, shall enter into an agreement with the department of mental health. Matching funds for outpatient mental health services, clinic mental health services, and rehabilitation services for mental health and alcohol and drug abuse shall be certified by the department of mental health to the division of medical services. The agreement shall establish a mechanism for the joint implementation of the provisions of this subdivision. In addition, the agreement shall establish a mechanism by which rates for services may be jointly developed.

(b) The department of mental health, in collaboration with the department of social services, shall establish by rule the definition and criteria for designation of a community-based

service. Services to be made available and easily accessible include intensive home-based services, early intervention services, family support services, respite services, and behavioral assistance services;

(20) Comprehensive day rehabilitation services beginning early posttrauma as part of a coordinated system of care for individuals with disabling impairments. Rehabilitation services must be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan developed, implemented, and monitored through an interdisciplinary assessment designed to restore an individual to optimal level of physical, cognitive and behavioral function. The division of medical services shall establish by administrative rule the definition and criteria for designation of a comprehensive day rehabilitation service facility, benefit limitations and payment mechanism;

(21) Hospice care. As used in this subsection, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part

418. Beginning July 1, 1990, the rate of reimbursement paid by the division of medical services to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(22) Such additional services as defined by the division of medical services to be furnished under waivers of federal statutory requirements as provided for and authorized by the federal Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general assembly;

(23) Beginning July 1, 1990, the services of a certified pediatric or family nursing practitioner to the extent that such services are provided in accordance with chapter 335, RSMo, and regulations promulgated thereunder, regardless of whether the nurse practitioner is supervised by or in association with a physician or other health care provider;

(24) Subject to appropriations, the department of social services shall conduct demonstration projects for nonemergency, physician-prescribed transportation for pregnant women who are recipients of medical assistance under this chapter in counties selected by the director of the division of medical services. The funds appropriated pursuant to this subdivision shall be used for the purposes of this subdivision and for no other purpose.

The department shall not fund such demonstration projects with revenues received for any other purpose. This subdivision shall not authorize transportation of a pregnant woman in active labor. The division of medical services shall notify recipients of nonemergency transportation services under this subdivision of such other transportation services which may be appropriate during active labor or other medical emergency;

(25) Nursing home costs for recipients of benefit payments under subdivision (4) of this subsection to reserve a bed for the recipient in the nursing home during the time that the recipient is absent due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the provisions of this subdivision:

(a) The provisions of this subdivision shall apply only if:

a. The occupancy rate of the nursing home is at or above ninety-seven percent of Medicaid certified licensed beds, according to the most recent quarterly census provided to the division of aging which was taken prior to when the recipient is admitted to the hospital; and

b. The patient is admitted to a hospital for a medical condition with an anticipated stay of three days or less;

(b) The payment to be made under this subdivision shall be provided for a maximum of three days per hospital stay;

(c) For each day that nursing home costs are paid on behalf of a recipient pursuant to this subdivision during any period of six consecutive months such recipient shall, during the same

period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise available temporary leave of absence days provided under subdivision (5) of this subsection; and

(d) The provisions of this subdivision shall not apply unless the nursing home receives notice from the recipient or the recipient's responsible party that the recipient intends to return to the nursing home following the hospital stay. If the nursing home receives such notification and all other provisions of this subsection have been satisfied, the nursing home shall provide notice to the recipient or the recipient's responsible party prior to release of the reserved bed.

2. Benefit payments for medical assistance for surgery as defined by rule duly promulgated by the division of medical services, and any costs related directly thereto, shall be made only when a second medical opinion by a licensed physician as to the need for the surgery is obtained prior to the surgery being performed.

3. The division of medical services may require any recipient of medical assistance to pay part of the charge or cost, as defined by rule duly promulgated by the division of medical services, for dental services, drugs and medicines, optometric services, eye glasses, dentures, hearing aids, and other services, to the extent and in the manner authorized by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder. When substitution of a generic

drug is permitted by the prescriber according to section 338.056, RSMo, and a generic drug is substituted for a name brand drug, the division of medical services may not lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of the federal Social Security Act. A provider of goods or services described under this section must collect from all recipients the partial payment that may be required by the division of medical services under authority granted herein, if the division exercises that authority, to remain eligible as a provider. Any payments made by recipients under this section shall be in addition to, and not in lieu of, any payments made by the state for goods or services described herein.

4. The division of medical services shall have the right to collect medication samples from recipients in order to maintain program integrity.

5. Reimbursement for obstetrical and pediatric services under subdivision (6) of subsection 1 of this section shall be timely and sufficient to enlist enough health care providers so that care and services are available under the state plan for medical assistance at least to the extent that such care and services are available to the general population in the geographic area, as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations promulgated thereunder.

6. Beginning July 1, 1990, reimbursement for services rendered in federally funded health centers shall be in accordance with the provisions of subsection 6402(c) and section

6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated thereunder.

7. Beginning July 1, 1990, the department of social services shall provide notification and referral of children below age five, and pregnant, breast-feeding, or postpartum women who are determined to be eligible for medical assistance under section 208.151 to the special supplemental food programs for women, infants and children administered by the department of health and senior services. Such notification and referral shall conform to the requirements of section 6406 of P.L. 101-239 and regulations promulgated thereunder.

8. Providers of long-term care services shall be reimbursed for their costs in accordance with the provisions of section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as amended, and regulations promulgated thereunder.

9. Reimbursement rates to long-term care providers with respect to a total change in ownership, at arm's length, for any facility previously licensed and certified for participation in the Medicaid program shall not increase payments in excess of the increase that would result from the application of section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

10. The department of social services, division of medical services, may enroll qualified residential care facilities, as defined in chapter 198, RSMo, as Medicaid personal care providers.



208.204. 1. The division of medical services may administer the funds appropriated to the department of social services or any division of the department for payment of medical care provided to children in the legal custody of the department of social services or any division of the department.

2. The department of social services shall review all cases of children in their custody to determine which cases involve children in the system due exclusively to a need for mental health services, and identify the cases where no instance of abuse, neglect, or abandonment exists.

3. Children identified under subsection 2 of this section may be returned by the judge to the custody of the child's family. Subject to appropriations, the department of mental health shall have the responsibility of providing the necessary services for such children in the least restrictive appropriate environment, including home- and community-based services, treatment, and support, based on a coordinated individualized treatment plan.

4. When children are returned to their family's custody and become the service responsibility of the department of mental health, the appropriate moneys to provide for the care of each child in such situation shall be billed to the department of social services by the department of mental health pursuant to the planning process in section 3 of this act.

208.647. Any child identified as having special health care needs, defined as a condition which left untreated would result

in the death or serious physical injury of a child, that does not have access to affordable employer-subsidized health care insurance shall not be required to be without health care coverage for six months in order to be eligible for services pursuant to sections 208.631 to 208.657 and shall not be subject to the waiting period required pursuant to section 208.646, as long as the child meets all other qualifications for eligibility.

210.025. 1. To qualify for receipt of state or federal funds for providing child-care services in the home either by direct payment or through reimbursement to a child-care beneficiary, an applicant and any person over the age of eighteen who is living in the applicant's home shall be required to submit to a criminal background check pursuant to section 43.540, RSMo, and a check of the central registry for child abuse established in section 210.145. Effective January 1, 2001, the requirements of this subsection or subsection 2 of this section shall be satisfied through registration with the family care safety registry established in sections 210.900 to 210.936. Any costs associated with such checks shall be paid by the applicant.

2. Upon receipt of an application for state or federal funds for providing child-care services in the home, the division of family services shall:

(1) Determine if a [probable cause] finding of child abuse or neglect by a preponderance of the evidence involving the applicant or any person over the age of eighteen who is living in the applicant's home has been recorded pursuant to section

210.221 or 210.145;

(2) Determine if the applicant or any person over the age of eighteen who is living in the applicant's home has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.221 or 210.496; and

(3) Upon initial application, require the applicant to submit to fingerprinting and request a criminal background check of the applicant and any person over the age of eighteen who is living in the applicant's home pursuant to section 43.540, RSMo, and section 210.487.

3. Except as otherwise provided in subsection 4 of this section, upon completion of the background checks in subsection 2 of this section, an applicant shall be denied state or federal funds for providing child care if such applicant or any person over the age of eighteen who is living in the applicant's home:

(1) Has had a [probable cause] finding of child abuse or neglect by a preponderance of the evidence pursuant to section 210.145 or section 210.152;

(2) Has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.496;

(3) Has pled guilty or nolo contendere to or been found guilty of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for an offense

against the family as defined in chapter 568, RSMo, with the exception of the sale of fireworks, as defined in section 320.110, RSMo, to a child under the age of eighteen; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge or any offenses or reports which will disqualify an applicant from receiving state or federal funds.

4. An applicant shall be given an opportunity by the division to offer any extenuating or mitigating circumstances regarding the findings, refusals or violations against such applicant or any person over the age of eighteen who is living in the applicant's home listed in subsection 2 of this section. Such extenuating and mitigating circumstances may be considered by the division in its determination of whether to permit such applicant to receive state or federal funds for providing child care in the home.

5. An applicant who has been denied state or federal funds for providing child care in the home may appeal such denial decision in accordance with the provisions of section 208.080, RSMo.

6. If an applicant is denied state or federal funds for providing child care in the home based on the background check results for any person over the age of eighteen who is living in the applicant's home, the applicant shall not apply for such

funds until such person is no longer living in the applicant's home.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

210.109. 1. The division of family services shall establish a child protection system for the entire state.

2. The child protection system shall [seek to] promote the safety of children and the integrity and preservation of their families by conducting investigations or family assessments and providing services in response to reports of child abuse or neglect. The system shall [endeavor to] coordinate community resources and provide assistance or services to children and

families identified to be at risk, and to prevent and remedy child abuse and neglect.

3. In addition to any duties specified in section 210.145, in implementing the child protection system, the division shall:

(1) Maintain a central registry;

(2) Receive reports and establish and maintain an information system operating at all times, capable of receiving and maintaining reports;

(3) Attempt to obtain the name and address of any person making a report in all cases, after obtaining relevant information regarding the alleged abuse or neglect, although reports may be made anonymously; except that, mandatory reporters pursuant to section 210.115, including employees of the division of family services, and juvenile officers, but not school personnel, shall not be made anonymously. School personnel who are mandatory reporters pursuant to section 210.115 shall only be required to disclose their classification as a mandatory reporter;

(4) Upon receipt of a report, check with the information system to determine whether previous reports have been made regarding actual or suspected abuse or neglect of the subject child, of any siblings, and the perpetrator, and relevant dispositional information regarding such previous reports;

(5) Provide protective or preventive services to the family and child and to others in the home to prevent abuse or neglect, to safeguard their health and welfare, and to help preserve and

stabilize the family whenever possible. The juvenile court shall cooperate with the division in providing such services;

(6) Collaborate with the community to identify comprehensive local services and assure access to those services for children and families where there is risk of abuse or neglect;

(7) Maintain a record which contains the facts ascertained which support the determination as well as the facts that do not support the determination;

(8) Whenever available and appropriate, contract for the provision of children's services through private children's services providers and agencies in the community; except that the state shall be the sole provider of child abuse and neglect hotline services, the initial child abuse and neglect investigation, and the initial family assessment. The state shall be responsible for representation to the court for children in the custody of the division, but the division may contract for such services. Such private children's services providers and agencies shall be subject to criminal background checks pursuant to chapter 43, RSMo, and shall submit names of all employees to the family care safety registry.

As used in this subsection, "report" includes any telephone call made pursuant to section 210.145.

[4. By January 1, 1998, the division of family services shall submit documentation to the speaker of the house of

representatives and the president pro tem of the senate on the success or failure of the child protection system established in this section. The general assembly may recommend statewide implementation or cancellation of the child protection system based on the success or failure of the system established in this section.

5. The documentation required by subsection 4 of this section shall include an independent evaluation of the child protection system completed according to accepted, objective research principles.]

210.110. As used in sections 210.109 to 210.165, and sections 210.180 to 210.183, the following terms mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse;

(2) "Central registry", a registry of persons where the division has found [probable cause to believe] by a preponderance of the evidence or a court has substantiated through court adjudication that the individual has committed child abuse or neglect or the person has pled guilty or has been found guilty of a crime pursuant to section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime pursuant to



chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025 or 573.035, RSMo, or an attempt to commit any such crimes. Any persons placed on the registry prior to August 28, 2003, shall remain on the registry for the duration of time required by section 210.152;

(3) "Child", any person, regardless of physical or mental condition, under eighteen years of age;

(4) "Children's services providers and agencies", any public or private entity or community action agency with the appropriate and relevant training and expertise in delivering services to children and their families, and capable of providing direct services and other family services for children in the custody of the division of family services or any such entities or agencies that are receiving state moneys for such services;

(5) "Director", the director of the Missouri division of family services;

[(5)] (6) "Division", the Missouri division of family services;

(7) "Emergency", a real and substantive risk of sexual abuse, imminent danger of death, or serious physical harm;

[(6)] (8) "Family assessment and services", an approach to be developed by the division of family services which will

provide for a prompt assessment of a child who has been reported to the division as a victim of abuse or neglect by a person responsible for that child's care, custody or control and of that child's family, including risk of abuse and neglect and, if necessary, the provision of community-based services to reduce the risk and support the family;

[(7)] (9) "Investigation", the collection of physical and verbal evidence to determine if a child has been abused or neglected;

[(8)] (10) "Jail or detention center personnel", employees and volunteers working in any premises or institution where incarceration, evaluation, care, treatment or rehabilitation is provided to persons who are being held under custody of the law;

[(9)] (11) "Neglect", failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for the child's well-being;

[(10)] "Probable cause", available facts when viewed in the light of surrounding circumstances which would cause a reasonable person to believe a child was abused or neglected;

(11)] (12) "Preponderance of the evidence", that degree of evidence that is of greater weight or more convincing than the evidence which is offered in opposition to it or evidence which as a whole shows the fact to be proved to be more probable than not;

(13) "Report", the communication of an allegation of child abuse or neglect to the division pursuant to section 210.115;

[(12)] (14) "Those responsible for the care, custody, and control of the child", those included but not limited to the parents or guardian of a child, other members of the child's household, or those exercising supervision over a child for any part of a twenty-four-hour day. Those responsible for the care, custody and control shall also include any adult who, based on relationship to the parents of the child, members of the child's household or the family, has access to the child.

210.111. By January 1, 2004, the division of family services, or its successor division, shall identify all children in the custody of the division currently receiving foster care services and shall report to the general assembly the type of foster care being provided, including but not limited to care provided in a licensed foster care home, institutional setting, residential setting, independent living setting, or kinship care setting, and the status of all such children. Nothing in this section shall be construed as requiring the division to disclose the identity or precise location of any child in the custody of the division.

210.112. 1. It is the policy of this state and its agencies to implement a foster care and child protection and welfare system focused on providing the highest quality of services and outcomes for children and their families. The department of social services shall implement such system subject

to the following principles:

(1) The safety and welfare of children is paramount;

(2) Services shall be provided on a competitive basis where public and private providers of direct services to children and their families will be evaluated in a uniform and consistent basis;

(3) Services to children and their families shall be provided in a timely manner to maximize the opportunity for successful outcomes; and

(4) Any provider of direct services to children and families shall have the appropriate training, education, and competencies to provide the highest quality of services possible.

2. On and after July 1, 2004, the division of family services shall seek and let children services contracts in order to provide direct services for children and their families pursuant to subdivision (8) of subsection 3 of section 210.109, except for services related to the child abuse and neglect hotline, and investigations of alleged child abuse and neglect and initial family assessments. All of such contracts shall be contracted for after a competitive bid process and all of such services shall be provided by public and private not-for-profit or limited liability corporations owned exclusively by not-for-profit corporations children's services providers and agencies which have:

(1) A proven record of providing child welfare services within the state of Missouri; or

(2) The ability to provide a broad range of child welfare services, which may include case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, mentoring, intensive in-home services, foster care services, adoption services, relative care case management, independent living services, and family reunification services.

Any contracts entered into by the division shall be in accordance with all federal laws and regulations and shall not result in a loss of federal funding. Such children's services providers and agencies under contract with the division shall be subject to all federal, state, and local laws and regulations relating to the provision of such services.

3. The delivery of direct services to children shall be subject to the following criteria:

(1) Child welfare services shall be delivered to a child and the child's family by professionals who have substantial training, education, or competencies otherwise demonstrated in the area of children and family services;

(2) Children's services providers and agencies shall be evaluated by the division and the courts based on objective, consistent, and performance-based criteria;

(3) Any case management services provided shall be subject to a case management plan which is consistent with all relevant federal guidelines. The case management plan shall focus on

attaining permanency in children's living conditions to the greatest extent possible and shall include concurrent planning and independent living where appropriate in accordance with the best interests of each child served and considering relevant factors applicable to each individual case as provided by law, including:

(a) The interaction and interrelationship of a child with the child's foster parents, biological parents, siblings, and any other person who may significantly affect the child's best interests;

(b) A child's adjustment to his or her foster home, school, and community;

(c) The mental and physical health of all individuals involved, including any history of abuse of or by any individuals involved; and

(d) The needs of the child for a continuing relationship with the child's biological parents and the ability and willingness of the child's biological parents to actively perform their functions as parents with regard to the needs of the child;

(4) The delivery system shall have sufficient flexibility to take into account children and families on a case-by-case basis;

(5) The highest quality of services possible shall be achieved through a system of incentives for reaching and exceeding clearly defined goals and outcome measures;

(6) The delivery system shall provide a mechanism for the

assessment of strategies to work with children and families immediately upon entry into the system to maximize permanency and successful outcome in the shortest time possible and shall include concurrent planning. Outcome measures for private and public agencies shall be equal for each program; and

(7) Children services contracts shall:

(a) Provide payment to the private child service agency in reasonable amounts necessary to cover the cost of the services provided pursuant to the contract; and

(b) Provide for financial incentives under the contract in addition to the costs of services provided in recognition of accomplishment of the case goals and the corresponding cost savings to the state; and

(c) Condition payment only on attainment of case goals and shall not condition payment to the children services agency upon completion of a process predetermined by the division of family services or other state agency or official.

4. In all cases, a case management plan consistent with all relevant federal guidelines shall be developed for each child at the earliest time after the initial investigation, but in no event longer than fourteen days after the initial investigation. Such case management plan shall be presented to the court and be the foundation of service delivery to the child and family. The case management plan shall, at a minimum, include:

(1) An outcome target based on the child and family situation achieving permanency or independent living, where

appropriate;

(2) Services authorized and necessary to facilitate the outcome target;

(3) Timeframes in which services will be delivered; and

(4) Necessary evaluations and reporting.

In addition to any visits and assessments required under case management, services to be provided by a public or private children's services provider under the specific case management plan may include family-centered services, foster and adoptive parent recruitment and retention, residential care, mentoring, intensive in-home services, foster care services, adoption services, relative care case services, independent living services, and family reunification services. In all cases, an appropriate level of services shall be provided to the child and family after permanency is achieved to assure a continued successful outcome.

5. By January 1, 2005, direct services for children and their families shall be delivered pursuant to this section in twenty percent of the cases subject to the supervision of the division. By January 1, 2006, direct services for children and their families shall be delivered pursuant to this section in thirty-five percent of the cases subject to the supervision of the division. By January 1, 2007, direct services for children and their families shall be delivered pursuant to this section in at least fifty percent of the cases subject to the supervision of



the division. The statewide privatization goals established in this subsection shall apply on a countywide basis to Greene County.

6. If the division of family services is unable to reach any of the goals provided by the provisions of this subsection by the target date, the division shall report such facts to the budget committees of the general assembly and the task force on children's justice established by the division of family services, and shall provide a plan to ameliorate the obstacles to attaining such goals.

210.113. 1. On or before January 15, 2006, and each January fifteenth through 2008, the division shall submit a report to the general assembly which shall include:

(1) Details about the specifics of the implementation of section 210.112, including the number of children and families served through contracted services, the cost to the state for contracting such services, the current status of the children and families served through contracted services, an assessment of the quality of services provided through contacted services and outcomes achieved, uniform guidelines to evaluate the providers of contracted services, and an overall evaluation of privatization through the utilization of contracted services; and

(2) Any recommendations regarding the continuation of privatization of services; and

(3) Any information or recommendations directly related to the provision of direct services for children and their families

that any of the contracting children's services providers and agencies request to have included in the report.

2. It is the intent and goal of the general assembly to attain accreditation by the Council for Accreditation for Families and Children's Services within five years of the effective date of this section.

210.115. 1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, minister as provided by section 352.400, RSMo, [Christian Science practitioner,] peace officer or law enforcement official, or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report or cause a report to be made to the division in accordance with the provisions of sections 210.109 to 210.183. As used in this section, the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in section 210.110, but shall also

include abuse inflicted by any other person.

2. Whenever such person is required to report pursuant to sections 210.109 to 210.183 in an official capacity as a staff member of a medical institution, school facility, or other agency, whether public or private, the person in charge or a designated agent shall be notified immediately. The person in charge or a designated agent shall then become responsible for immediately making or causing such report to be made to the division. Nothing in this section, however, is meant to preclude any person from reporting abuse or neglect.

3. Notwithstanding any other provision of sections 210.109 to 210.183, any child who does not receive specified medical treatment by reason of the legitimate practice of the religious belief of the child's parents, guardian, or others legally responsible for the child, for that reason alone, shall not be found to be an abused or neglected child, and such parents, guardian or other persons legally responsible for the child shall not be entered into the central registry. However, the division may accept reports concerning such a child and may subsequently investigate or conduct a family assessment as a result of that report. Such an exception shall not limit the administrative or judicial authority of the state to ensure that medical services are provided to the child when the child's health requires it.

4. In addition to those persons and officials required to report actual or suspected abuse or neglect, any other person may report in accordance with sections 210.109 to 210.183 if such

person has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect.

5. Any person or official required to report pursuant to this section, including employees of the division, who has probable cause to suspect that a child who is or may be under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall report that fact to the appropriate medical examiner or coroner. If, upon review of the circumstances and medical information, the medical examiner or coroner determines that the child died of natural causes while under medical care for an established natural disease, the coroner, medical examiner or physician shall notify the division of the child's death and that the child's attending physician shall be signing the death certificate. In all other cases, the medical examiner or coroner shall accept the report for investigation, shall immediately notify the division of the child's death as required in section 58.452, RSMo, and shall report the findings to the child fatality review panel established pursuant to section 210.192.

6. Any person or individual required to report may also report the suspicion of abuse or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take the place of reporting or causing a report to be made to the division.

7. If an individual required to report suspected instances

of abuse or neglect pursuant to this section has reason to believe that the victim of such abuse or neglect is a resident of another state or was injured as a result of an act which occurred in another state, the person required to report such abuse or neglect may, in lieu of reporting to the Missouri division of family services, make such a report to the child protection agency of the other state with the authority to receive such reports pursuant to the laws of such other state. If such agency accepts the report, no report is required to be made, but may be made, to the Missouri division of family services.

210.145. 1. The division shall [~~establish and~~] develop protocols which give priority to:

(1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;

(2) Promoting the preservation and reunification of children and families;

(3) Providing due process for those accused of child abuse or neglect; and

(4) [Maintain] Maintaining an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. Upon receipt of a report, the division shall immediately communicate such report to its appropriate local office and any

relevant information as may be contained in the information system and determine if the report merits an investigation, or, which, if true, would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024, or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.035, 573.037 or 573.040, RSMo, or an attempt to commit any such crimes. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

3. The division shall utilize structured decision-making protocol for classification purposes of all child abuse and neglect reports. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. All child abuse and neglect reports shall be initiated within twenty-four hours and shall be classified based upon the reported risk and injury to the child, considering, but not limited to,

the following factors:

(1) Is there serious physical abuse alleged where siblings remain in the home;

(2) Is there a child fatality due to alleged abuse or neglect and siblings remain in the home;

(3) Is there alleged physical abuse occurring right now;

(4) Are injuries or symptoms of injuries evident that require immediate medical care, or is the child in need of immediate psychiatric care due to alleged abuse;

(5) Were severe to inhumane measures used;

(6) Will the alleged perpetrator have access to the child in the next twenty-four hours or is the child afraid to go home;

(7) Did the alleged abuse occur within the last thirty days;

(8) Is the child currently in a protected environment;

(9) Is the current situation immediately dangerous;

(10) Are there prior nonharassment child abuse or neglect reports;

(11) Is the allegation educational neglect only;

(12) Does the alleged perpetrator have access to the child within the next twenty-four hours, or is the child exhibiting severe emotional trauma or physical injury due to the alleged sexual abuse;

(13) Does the child appear seriously ill or injured or in need of immediate care; or

(14) Does the child have a chronic illness or minor

injuries that require attention.

In all cases the division must have face-to-face contact with all other children in the alleged victim's household within seventy-two hours.

4. Such reports shall be prioritized for the local office utilizing the following response levels:

(1) Level 1 priority shall require division staff to have face-to-face contact with the alleged victim or victims within three hours;

(2) Level 2 priority shall require division staff to have face-to-face contact with the alleged victim or victims within twenty-four hours;

(3) Level 3 priority shall require division staff to have face-to-face contact with the alleged victim or victims within seventy-two hours.

In all cases the division must have face-to-face contact with all other children in the alleged victim's household within seventy-two hours.

[3.] 5. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation, or, which, if true, would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime under



chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.035, 573.037 or [573.045] 573.040, RSMo, or an attempt to commit any such crimes. The local office shall provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

[4.] 6. The local office of the division shall cause an investigation or family assessment and services approach to be initiated immediately or no later than within twenty-four hours of receipt of the report from the division, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report.

Local law enforcement shall take all necessary steps to facilitate such direct observation. If the parents of the child are not the alleged abusers[, the parents] and the abuse is alleged to have occurred in a school or child care facility, a parent of the child must be notified prior to the child being interviewed by the division. The division shall not meet with the child [in any location where abuse of such child is alleged to have occurred] in any school or child care facility building where abuse of such child is alleged to have occurred. When the child is reported absent from the residence, the location and the well-being of the child shall be verified.

[5.] 7. The director of the division shall name at least one chief investigator for each local division office, who shall direct the division response on any case involving a second or subsequent incident regarding the same subject child or perpetrator. The duties of a chief investigator shall include verification of direct observation of the subject child by the division and shall ensure information regarding the status of an investigation is provided to the public school district liaison. The public school district liaison shall develop protocol in conjunction with the chief investigator to ensure information regarding an investigation is shared with appropriate school personnel. The superintendent of each school district shall designate a specific person or persons to act as the public school district liaison. Should the subject child attend a nonpublic school the chief investigator shall notify the school

principal of the investigation. Upon notification of an investigation, all information received by the public school district liaison or the school shall be subject to the provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.

[6.] 8. The investigation shall include but not be limited to the nature, extent, and cause of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the names and conditions of other children in the home, if any; the home environment and the relationship of the subject child to the parents or other persons responsible for the child's care; any indication of incidents of physical violence against any other household or family member; and other pertinent data.

[7.] 9. When a report has been made by a person required to report under section 210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

[8.] 10. Upon completion of the investigation, if the division suspects that the report was made maliciously or for the purpose of harassment, the division shall refer the report and any evidence of malice or harassment to the local prosecuting or circuit attorney.

[9.] 11. Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in

conjunction with local law enforcement. Multidisciplinary teams shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

12. For all family support team meetings and other team meetings involving an alleged victim of child abuse or neglect, the biological parents, legal counsel for the biological parents, foster parents, the guardian ad litem for the child, and the court-appointed special advocate for the child shall be provided notice and be permitted to attend all such meetings. Family members or other community informal or formal service providers that provide significant support to the child and family may also be invited at the discretion of the family. In addition, the biological parents, the legal counsel for the biological parents, and the foster parents may request that other individuals be permitted to attend such meetings. Once a person is provided notice of or attends such meetings, the division shall provide such persons with notice of all such subsequent meetings involving the child. Families may determine whether individuals invited at their discretion shall continue to be invited.

[10.] 13. If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall

provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

[11.] 14. If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

(1) Assess any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

(2) Provide services which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division

determines that an investigation, as delineated in sections 210.109 to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(4) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed.

[12.] 15. Within thirty days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within thirty days, unless good cause for the failure to complete the investigation is documented in the information system. If the investigation is not completed within thirty days, the information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

[13.] 16. A person required to report under section 210.115 to the division shall be informed by the division of his right to obtain information concerning the disposition of his or

her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. A person required to report to the division pursuant to section 210.115 may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the mandated reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made available to the mandated reporter within five days of the outcome of the investigation.

[14.] 17. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However, nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made.

[15.] 18. In any judicial proceeding involving the custody of a child where the court determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.

[16.] 19. The division of family services is hereby granted the authority to promulgate rules and regulations

pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

[17.] 20. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

210.147. 1. Except as otherwise provided by law, all information provided at any meeting or hearing held in relation to the removal of a child from the child's home is confidential; except that:

(1) Any parent or party may waive confidentiality for himself or herself; and

(2) No person shall be required to sign a confidentiality agreement before testifying or providing information at such meetings or hearing. However, any person who does not agree to maintain confidentiality of the information provided at such meetings or hearings may be excluded from all or any portion of



such meetings or hearings during which the person is not  
testifying or providing information.

2. All meetings and hearings held in relation to the  
removal of a child from the child's home by a juvenile officer or  
the division may be recorded by the child, parent, or any party  
through the use of either audiotape or videotape equipment, or  
both. Any information contained in the audiotape or videotape  
shall not be considered confidential after the seventy-two hour  
status conference is held pursuant to section 211.032 to the  
extent that such information is not otherwise privileged by law,  
unless a court enters an order prohibiting the disclosure of such  
information.

210.152. 1. All identifying information, including  
telephone reports reported pursuant to section 210.145, relating  
to reports of abuse or neglect received by the division shall be  
retained by the division and removed from the records of the  
division as follows:

(1) For investigation reports contained in the central  
registry, identifying information shall be retained by the  
division;

(2) For investigation reports initiated by a person  
required to report pursuant to section 210.115, where  
insufficient evidence of abuse or neglect is found by the  
division, identifying information shall be retained for [ten]  
five years from the date of the report. For all other  
investigation reports where insufficient evidence of abuse or

neglect is found by the division, identifying information shall be retained for two years from the date of the report. Such report shall include any exculpatory evidence known by the division, including exculpatory evidence obtained after the closing of the case. At the end of such two-year period, the identifying information shall be removed from the records of the division and destroyed;

(3) For reports where the division uses the family assessment and services approach, identifying information shall be retained by the division;

(4) For reports in which the division is unable to locate the child alleged to have been abused or neglected, identifying information shall be retained for ten years from the date of the report and then shall be removed from the records of the division.

2. Within ninety days after receipt of a report of abuse or neglect that is investigated, the alleged perpetrator named in the report and the parents of the child named in the report, if the alleged perpetrator is not a parent, shall be notified in writing of any determination made by the division based on the investigation. The notice shall advise either:

(1) That the division has determined by a preponderance of the evidence that [there is probable cause to suspect] abuse or neglect exists and that the division shall retain all identifying information regarding the abuse or neglect; that such information shall remain confidential and will not be released except to law

enforcement agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's determination through a review by the child abuse and neglect review board as provided in subsection 3 of this section; or

(2) [There is insufficient probable cause of abuse or neglect.] That the division has not determined by a preponderance of the evidence that abuse or neglect exists.

3. Any person named in an investigation as a perpetrator who is aggrieved by a determination of abuse or neglect by the division as provided in this section may seek an administrative review by the child abuse and neglect review board pursuant to the provisions of section 210.153. Such request for review shall be made within sixty days of notification of the division's decision under this section. In those cases where criminal charges arising out of facts of the investigation are pending, the request for review shall be made within sixty days from the court's final disposition or dismissal of the charges.

4. In any such action for administrative review, the child abuse and neglect review board shall sustain the division's determination if [such determination is supported by evidence of probable cause and is not against the weight of such evidence] the division establishes by a preponderance of the evidence that the alleged perpetrator abused or neglected a child. The abuse and neglect review board shall provide the alleged perpetrator

with an opportunity to appear and present testimony. The child abuse and neglect review board hearing shall be closed to all persons except the parties, their attorneys and those persons providing testimony on behalf of the parties.

5. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect review board, the alleged perpetrator may [seek de novo judicial review in the circuit court in the county in which the alleged perpetrator resides and in circuits with split venue, in the venue in which the alleged perpetrator resides, or in Cole County] demand in writing that the division initiate de novo review proceedings. Such demand shall be made within sixty days of the notification of the decision of the child abuse and neglect review board. The division shall initiate de novo review proceedings in the circuit court of Cole County within fourteen days. The alleged perpetrator may request a change of venue to the circuit court for the county in which the alleged perpetrator resides. If the alleged perpetrator is not a resident of the state, proper venue shall be in Cole County. The case may be assigned to the family court division where such a division has been established. [The request for a judicial review shall be made within sixty days of the notification of the decision of the child abuse and neglect review board decision. In reviewing such decisions,] In the de novo review proceeding, the division shall be the petitioner and shall establish by a preponderance of the evidence that the alleged perpetrator abused or neglected a child. The circuit

court shall provide the alleged perpetrator the opportunity to appear and present testimony. The [alleged perpetrator] parties may subpoena any witnesses except the alleged victim or the reporter. However, the circuit court shall have the discretion to allow the parties to submit the case upon a stipulated record.

6. In any such action for administrative review the child abuse and neglect review board shall notify the child or the parent, guardian or legal representative of the child that a review has been requested.

210.160. 1. In every case involving an abused or neglected child which results in a judicial proceeding, the judge shall appoint a guardian ad litem to appear for and represent:

(1) A child who is the subject of proceedings pursuant to sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo, or proceedings to determine custody or visitation rights under sections 452.375 to 452.410, RSMo; or

(2) A parent who is a minor, or who is a mentally ill person or otherwise incompetent, and whose child is the subject of proceedings under sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo.

2. The guardian ad litem shall be provided with all reports relevant to the case made to or by any agency or person [and], shall have access to all records of such agencies or persons relating to the child or such child's family members or

placements of the child, and upon appointment by the court, shall be informed of and have the right to attend any and all meetings involving the child. Employees of the division, officers of the court, and employees of any agency involved shall fully inform the guardian ad litem of all aspects of the case of which they have knowledge or belief.

3. The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. The appointing judge shall have the authority to examine the general and criminal background of persons appointed as guardians ad litem, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937, to ensure the safety and welfare of the children such persons are appointed to represent. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

4. The guardian ad litem may be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. However, no fees as a judgment shall be taxed against a party or parties who have not been found to have abused or neglected a child or children. Such an award of guardian fees shall constitute a final judgment

in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

5. The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. The court shall have the authority to examine the general and criminal background of persons designated as volunteer advocates, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937, to ensure the safety and welfare of the children such persons are designated to represent. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person [and], shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon designation by the court shall be informed of and have the right to attend any and all meetings involving the child. Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

6. Any person appointed to perform guardian ad litem duties shall have completed a training program in permanency planning and shall, whenever possible, advocate for timely court hearings to attain permanency for a child as expeditiously as possible to reduce the effects that prolonged foster care may have on a child. A nonattorney volunteer advocate shall have access to a

court appointed attorney guardian ad litem should the circumstances of the particular case so require.

210.183. 1. At the time of the initial investigation of a report of child abuse or neglect, the division employee conducting the investigation shall provide the alleged perpetrator with a written description of the investigation process. Such written notice shall be given substantially in the following form:

"The investigation is being undertaken by the Division of Family Services pursuant to the requirements of chapter 210 of the Revised Missouri Statutes in response to a report of child abuse or neglect.

"The identity of the person who reported the incident of abuse or neglect is confidential and may not even be known to the Division since the report could have been made anonymously.

"This investigation is required by law to be conducted in order to enable the Division of Family Services to identify incidents of abuse or neglect in order to provide protective or preventive social services to families who are in need of such services.

"The division shall make every reasonable attempt to complete the investigation within thirty days. Within ninety days you will receive a letter from the Division which will inform you of one of the following:

"(1) That the Division has found insufficient evidence of abuse or neglect; or



"(2) That there appears to be [probable cause] by a preponderance of the evidence reason to suspect the existence of child abuse or neglect in the judgment of the Division and that the Division will contact the family to offer social services.

"If the Division finds [there is probable cause to believe] by a preponderance of the evidence that child abuse or neglect has occurred or the case is substantiated by court adjudication, a record of the report and information gathered during the investigation will remain on file with the Division.

"If you disagree with the determination of the Division and feel that there is insufficient [probable cause to believe] evidence to prove by a preponderance of the evidence that abuse or neglect has occurred, you have a right to request an administrative review at which time you may hire an attorney to represent you. If you request an administrative review on the issue, you will be notified of the date and time of your administrative review hearing by the child abuse and neglect review board. If the division's decision is reversed by the child abuse and neglect review board, the Division records concerning the report and investigation will be updated to reflect such finding. If the child abuse and neglect review board upholds the division's decision, an appeal may be filed in circuit court within sixty days of the child abuse and neglect review board's decision."

2. If the division uses the family assessment approach, the division shall at the time of the initial contact provide the

parent of the child with the following information:

- (1) The purpose of the contact with the family;
- (2) The name of the person responding and his office telephone number;
- (3) The assessment process to be followed during the division's intervention with the family including the possible services available and expectations of the family.

210.187. 1. The task force on children's justice established by the division of family services to recommend improvements in the area of child abuse and neglect services and provide funding for such recommendations shall provide an independent review of policies and procedures of state and local child protective services agencies, and where appropriate, specific cases, and shall evaluate the extent to which the agencies are effectively discharging their child protection responsibilities.

2. Consistent with the task force's function of reviewing applications for federal grant moneys available to the state under the Children's Justice Act which are designed to assist eligible states in implementing programs for the handling, investigation, and prosecution of child abuse cases, the task force shall consider the awarding of grant moneys which address the issues that arise from the independent review conducted by the task force pursuant to subsection 1 of this section. As authorized by the Children's Justice Act, grant moneys shall be awarded for the following categories:

(1) Improvements to the investigative, administrative, and judicial handling of cases of child abuse and neglect;

(2) Experimental, model, and demonstration programs for testing innovative approaches and techniques to improve the prompt and successful resolution of court proceedings or enhance the effectiveness and judicial administration action in child abuse and neglect cases; and

(3) Reform of state laws, rules, protocols, and procedures to provide comprehensive protection for children from abuse and neglect.

3. The members of the task force shall not disclose to any person or government official any identifying information concerning a specific child protection case with respect to which the task force is providing information and shall not make public other information unless authorized by state law.

4. The task force shall be provided:

(1) Access to information on cases that the task force desires or is requested to review if such information is necessary for the task force to carry out its functions pursuant to this section; and

(2) Upon request, assistance from the department of social services for the performance of the task force's duties.

210.188. Beginning February 1, 2005, and each February first thereafter, the department of social services shall submit a report to the governor and the general assembly that includes the following information for the previous calendar year:

(1) The number of children who were reported to the state of Missouri during the year as abused or neglected;

(2) Of the number of children described in subdivision (1) of this section, the number with respect to whom such reports were substantiated or unsubstantiated;

(3) Of the number of children described in subdivision (2) of this section:

(a) The number that did not receive services during the year under a state program;

(b) The number that did receive services during the year under a state program; and

(c) The number that were removed from their families during the year by disposition of the case;

(4) The number of families that received preventive services from the state or a private service provider during the year;

(5) The number of deaths in the state during the year resulting from child abuse or neglect;

(6) Of the number of children described in subdivision (5) of this section, the number of children who were in foster care or received services from a private service provider;

(7) The number of child protective services workers responsible for the intake and screening of reports filed during the year;

(8) The agency response time with respect to each such report with respect to initial investigation of reports of child

abuse or neglect;

(9) The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made;

(10) The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated during the year;

(11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child; and

(12) The number of children in foster care who have been adopted.

210.201. As used in sections 210.201 to 210.257, the following terms mean:

(1) "Child", an individual who is under the age of seventeen;

(2) "Child-care facility", a house or other place conducted or maintained by any person who advertises or holds himself out as providing care for more than four children during the daytime, for compensation or otherwise, except those operated by a school system or in connection with a business establishment which provides child care as a convenience for its customers or its employees for no more than four hours per day, but a child-care facility shall not include any private or religious organization

elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old children, a home school, as defined in section 167.031, RSMo, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization. If a facility or program is exempt from licensure based on the school exception established in this subdivision, such facility or program shall submit documentation annually to the department to verify its licensure-exempt status;

(3) "Person", any person, firm, corporation, association, institution or other incorporated or unincorporated organization;

(4) "Religious organization", a church, synagogue or mosque; an entity that has or would qualify for federal tax-exempt status as a nonprofit religious organization under Section 501(c) of the Internal Revenue Code; or an entity whose real estate on which the child-care facility is located is exempt from taxation because it is used for religious purposes.

210.211. 1. It shall be unlawful for any person to establish, maintain or operate a child-care facility for children, or to advertise or hold himself or herself out as being able to perform any of the services as defined in section 210.201, without having in effect a written license granted by the department of health and senior services; except that nothing in sections 210.203 to 210.245 shall apply to:

(1) Any person who is caring for four or fewer children.

For purposes of this subdivision, children who are related by blood, marriage or adoption to such person within the third degree shall not be considered in the total number of children being cared for;

(2) Any person who has been duly appointed by a court of competent jurisdiction the guardian of the person of the child or children, or the person who has legal custody of the child or children;

(3) Any person who receives free of charge, and not as a business, for periods not exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or children of personal friends of such person, and who receives custody of no other unrelated child or children;

(4) Any graded boarding school, summer camp, hospital, sanitarium or home which is conducted in good faith primarily to provide education, recreation, medical treatment, or nursing or convalescent care for children;

(5) Any child-care facility maintained or operated under the exclusive control of a religious organization. When a nonreligious organization, having as its principal purpose the provision of child-care services, enters into an arrangement with a religious organization for the maintenance or operation of a child-care facility, the facility is not under the exclusive control of the religious organization;

(6) Any residential facility or day program licensed by the department of mental health pursuant to sections 630.705 to

630.760, RSMo, which provides care, treatment and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability, as defined in section 630.005, RSMo; and

(7) Any nursery school.

2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility shall be exempt from licensure if such facility receives any state or federal funds for providing care for children, except for federal funds for those programs which meet the requirements for participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. 1766. Grants to parents for child care pursuant to sections 210.201 to 210.257 shall not be construed to be funds received by [the] a person or facility listed in subdivisions (1) and (5) of subsection 1 of this section.

210.482. 1. If the emergency placement of a child in a private home is necessary due to the unexpected absence of the child's parents, legal guardian, or custodian, the juvenile court or division of family services:

(1) May request that a local or state law enforcement agency or juvenile officer immediately conduct a name-based criminal history record check to include full orders of protection and outstanding warrants of each person eighteen years of age or older residing in the home by using the Missouri uniform law enforcement system (MULES) and the National Crime Information Center to access the Interstate Identification Index



maintained by the Federal Bureau of Investigation; and

(2) Shall determine, or in the case of the juvenile court request the division to determine, whether any person eighteen years of age or older residing in the home is listed on the child abuse and neglect registry.

2. If a name-based search has been conducted pursuant to subsection 1 of this section, within five business days after the emergency placement of the child in the private home, and if the private home has not previously been approved as a foster or adoptive home, all persons eighteen years of age or older residing in the home shall report to a local law enforcement agency for the purpose of providing two sets of fingerprints each and accompanying fees, pursuant to section 43.530, RSMo. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. Results of the checks will be provided to the juvenile court or division of family services' office requesting such information. Any child placed in emergency placement in a private home shall be removed immediately if any person residing in the home fails to provide fingerprints after being requested to do so, unless the person refusing to provide fingerprints ceases to reside in the private home.

3. If the placement of a child is denied as a result of a name-based criminal history check and the denial is contested, all persons eighteen years of age or older residing in the home

shall, within five business days, submit to the juvenile court or the division of family services two sets of fingerprints in the same manner described in subsection 2 of this section, accompanying fees, and written permission authorizing the juvenile court or the division of family services to forward the fingerprints to the state criminal record repository for submission to the Federal Bureau of Investigation. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

4. For the purposes of this section, "emergency placement" refers to those limited instances when the juvenile court or division of family services is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

210.487. 1. When conducting investigations of persons for the purpose of foster parent licensing, the division shall:

(1) Conduct a search for any adult in the applicant's household for evidence of full orders of protection. The office of state courts administrator shall allow access to the automated court information system by the division. The clerk of each court contacted by the division shall provide the division information within ten days of a request; and

(2) Obtain two sets of fingerprints for any adult in the

applicant's household in the same manner set forth in subsection 2 of section 210.482. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. The highway patrol shall assist the division and provide the criminal fingerprint background information, upon request; and

(3) Determine whether any person eighteen years of age or older residing in the home is listed on the child abuse and neglect registry.

2. The division may make arrangements with other executive branch agencies to obtain any investigative background information.

3. The division may promulgate rules and regulations that are necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

210.518. 1. The department of social services, the department of mental health, the department of elementary and secondary education and all subdivisions thereof shall develop and implement through interagency agreement a common system of classification for assessing the needs of a child and common terminology to describe the services to be provided to the child. The agreement must establish a standardized form and set of records to be kept for such children which shall include, if

applicable to such child, any individualized education plan, diagnostic summary, school history, school records, medical history, court records, placement orders and any criminal history. The agreement shall be adopted and in effect on or before July 1, 1999.

2. To facilitate the coordination of services being provided to children, interagency meetings pursuant to subsection 1 of this section shall be held as frequently as appropriate to address and review any actions being taken by agency personnel involved in the provision of services to a child. The agencies shall document which staff members attended such meetings. If any services for the child are provided through contracted providers, such providers shall be included in the meetings described in this section.

210.542. 1. The division of family services shall provide certain standards and training that prospective foster care parents shall meet before becoming licensed.

2. The division of family services shall provide performance-based criteria for the evaluation of licensed foster parents and may establish by rule the frequency of such evaluation.

210.565. 1. Whenever a child is placed in a foster home and the court has determined pursuant to subsection 3 of this section that foster home placement with relatives is not contrary to the best interest of the child, the division of family services shall give [preference and first consideration for]

foster home placement to relatives of the child. Notwithstanding any rule of the division to the contrary, grandparents who request consideration shall be given preference and first consideration for foster home placement.

2. As used in this section, the term "relative" means a person related to another by blood or affinity within the third degree. The status of a grandparent shall not be affected by the death or the dissolution of the marriage of a son or daughter.

3. The preference for placement with relatives created by this section shall only apply where the court finds that placement with such relatives is in the best interest of the child considering all circumstances. If the court finds that it is not in the best interest of a child to be placed with relatives, the court shall make specific findings on the record detailing the reasons why the best interests of the child necessitate placement of the child with persons other than relatives.

4. The age of the child's relative shall not be the only factor that the division of family services takes into consideration when it makes placement decisions and recommendations to the court about placing the child with such relative.

5. For any native American child placed in protective custody, the division of family services shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

210.760. 1. In making placements in foster care the

division of family services shall:

(1) Arrange for a preplacement visit of the child, except in emergencies;

(2) Provide full and accurate medical information and medical history to the persons providing foster care at the time of placement;

(3) Give a minimum of five days advance notice to the persons providing foster care before removing a child from their care;

(4) Provide the persons giving foster care with a written statement of the reasons for removing a child at the time of the notification required by this section; [and]

(5) Notify the child's parent or legal guardian that the child has been placed in foster care, except where harm or danger to the child is imminent; and

(6) Work with the [natural] parent or legal guardian of the child, through services available, in an effort to return the child to his natural home, if at all possible, or to place the child in a permanent adoptive setting, in accordance with the division's goals to reduce the number of children in long-term foster care and reestablish and encourage the family unit.

2. Except as otherwise provided in section 210.125, no child shall be removed from school for placement in foster care without a court order specifying that the child shall be removed from school.

3. No employee of the division or any employee of a public

or charter school within this state shall perform a strip search, as defined in section 544.193, RSMo, of any student of any such school without the signed permission of one of the student's parents or guardian.

(1) No strip search of any minor shall be performed outside the presence of any parent or guardian not otherwise the subject of an investigation of abuse or neglect if such parent or guardian requests to be present. Any qualified parent or guardian shall be notified of his or her right to request to be present.

(2) In addition, no employee of the division or any employee of a public or charter school shall direct a student to take part in, direct, or supervise a strip search of a fellow student. For purposes of this section, "employee" includes all temporary and part-time employees of the division or such public or charter schools.

(3) Any employee of the division or any employee of a public or charter school who violates the provisions of this section shall be immediately suspended without pay, pending an evidentiary hearing when such employee is entitled by statute to such a hearing.

210.762. 1. The division of family services shall arrange for an initial team meeting immediately following the status conference held pursuant to section 211.032, RSMo, and additional team meetings prior to taking any action relating to the placement of a child in its custody except as otherwise provided

in this section. Where the welfare of the child requires an immediate or emergency placement or change of placement, the division may make a temporary placement of a child in its custody. The division shall schedule a team meeting within seventy-two hours of the temporary placement of the child.

2. The parent or legal guardian of the child, the foster parents, the guardian ad litem, the juvenile officer, the division of family services caseworker, the court appointed special advocate, and any designee of the parent that has written authorization shall be notified and invited to participate in all team meetings. The team meeting may include such other persons whose attendance at the meeting may assist the team in making appropriate decisions in the best interests of the child. If the division finds that it is not in the best interest of a child to be placed with relatives, the division shall make specific findings in the division's report detailing the reasons why the best interests of the child necessitate placement of the child with persons other than relatives.

3. The department shall be responsible for developing a form to be signed upon the conclusion of the meeting pursuant to subsection 1 of this section confirming that all involved parties are aware of the team's decision regarding the custody and placement of the child. Any dissenting views must be recorded and attested to on such form.

4. The division of family services shall be responsible for including such form with the case records of the child.



210.903. 1. To protect children, the elderly, and disabled individuals in this state, and to promote family and community safety by providing information concerning family caregivers, there is hereby established within the department of health and senior services a "Family Care Safety Registry and Access Line" which shall be available by January 1, 2001.

2. The family care safety registry shall contain information on child-care workers', elder-care workers', and personal-care workers' background and on child-care, elder-care and personal-care providers through:

(1) The patrol's criminal record check system pursuant to section 43.540, RSMo, including state and national information, to the extent possible;

(2) Probable cause Findings of abuse and neglect by a preponderance of the evidence pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, financial exploitation of the elderly or disabled, pursuant to section 570.145, RSMo;

(3) The division of aging's employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, the department of mental health's employee disqualification registry;

(5) Foster parent licensure denials, revocations and involuntary suspensions pursuant to section 210.496;

(6) Child-care facility license denials, revocations and suspensions pursuant to sections 210.201 to 210.259; and

(7) Residential living facility and nursing home license

denials, revocations, suspensions and probationary status pursuant to chapter 198, RSMo[.]; and

(8) As of January 1, 2004, a check of the patrol's Missouri uniform law enforcement system (MULES) for sexual offender registrations pursuant to Section 589.400, RSMo.

210.909. 1. Upon submission of a completed registration form by a child-care worker, elder-care worker or personal-care attendant, the department shall:

(1) Determine if a [probable cause] finding of child abuse or neglect by a preponderance of the evidence involving the applicant has been recorded pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, if there is a [probable cause] finding of financial exploitation of the elderly or disabled pursuant to section 570.145, RSMo;

(2) Determine if the applicant has been refused licensure or has experienced involuntary licensure suspension or revocation pursuant to section 210.496;

(3) Determine if the applicant has been placed on the employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, determine if the applicant is listed on the department of mental health's employee disqualification registry;

(5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether the applicant has any conviction, plea of guilty or nolo contendere, or a suspended execution of sentence to a charge of any offense pursuant to chapters 198,

334, 560, 565, 566, 568, 569, 573, 575 and 578, RSMo; and

(6) If the background check involves a provider, determine if a facility has been refused licensure or has experienced licensure suspension, revocation or probationary status pursuant to sections 210.201 to 210.259 or chapter 198, RSMo[.]; and

(7) As of January 1, 2004, determine through a request to the patrol if the applicant is a registered sexual offender pursuant to section 589.400, RSMo, listed in the Missouri uniform law enforcement system (MULES).

2. Upon completion of the background check described in subsection 1 of this section, the department shall include information in the registry for each registrant as to whether any convictions, employee disqualification listings, registry listings, [probable cause] findings, pleas of guilty or nolo contendere, or license denial, revocation or suspension have been documented through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

3. The department shall notify such registrant in writing of the results of the determination recorded on the registry pursuant to this section.

210.922. The department of health and senior services, the department of mental health, and the department of social services may use the registry information to carry out the duties assigned to the department pursuant to this chapter and chapters 190, 195, 197, 198, 630, and 660, RSMo.

211.031. 1. Except as otherwise provided in this chapter,

the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found

within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall

not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to

subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570, RSMo, with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant a change of judge pursuant to Missouri Supreme Court Rules, a change of venue to the family court or juvenile court of another judicial circuit pursuant to Missouri Supreme Court Rules, or both;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the

transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031, RSMo, then the juvenile officer shall send the report to the school district in which the child resides. The school district shall immediately refer all private, parochial, or home school matters to the prosecuting attorney of the county where the child legally resides. The school district may refer public school violations of section 167.031, RSMo, to the prosecuting attorney. Nothing in this subsection shall be interpreted as authorizing a juvenile officer to take custody of a child or person seventeen years of age.

211.032. 1. When a child or person seventeen years of age, alleged to be in need of care and treatment pursuant to subdivision (1) of subsection 1 of section 211.031, is taken into custody, the juvenile or family court shall make reasonable efforts to notify the [parties of the right to have a protective custody hearing. Such notification shall be in writing.] biological parents, the foster parents, and the grandparents of



the child, the division of family services worker, the child abuse and neglect hotline worker, and the guardian ad litem or court-appointed special advocate for the child of the specific date, time, and place that a status conference will be held by the court. Such status conference shall be an open conference and shall be held within three days of the child being taken into custody, excluding Saturdays, Sundays, and legal holidays. The inability to provide notice to any of the persons listed in this subsection after reasonable efforts have been made or the absence of any such persons at the status conference shall not preclude the court from conducting the status conference as scheduled. The supreme court shall establish procedures for the status conference held pursuant to this subsection which shall include, but not be limited to, the following issues:

(1) Whether the child can immediately be returned to the child's home. If a child could be returned to the home if support services are provided, such services shall be ordered;

(2) Appointment of a guardian ad litem or court-appointed special advocate for the child;

(3) Appointment of legal counsel;

(4) Whether paternity has been established or needs to be established;

(5) Service of process and the location of any absent parent;

(6) Whether reasonable efforts were made and documented by the division prior to the removal or emergency removal of the

child and whether the safety issue justifying custody is documented;

(7) A contrary to welfare finding;

(8) Placement of the child and the availability of relatives of the child as the preferred placement;

(9) Whether the removal of the child necessitates a placement which will cause a disruption in the school currently attended by such child;

(10) Providing for visitation by the child's parents, siblings, or other family members where appropriate;

(11) The status of any temporary assistance for needy families benefits, Social Security benefits, or child support that is being received on behalf of the child; and

(12) Providing for any necessary evaluations, including medical or psychological evaluations.

A protective custody hearing may be requested at a status conference, and if requested, a date for such hearing shall be scheduled pursuant to subsection 2 of this section at the time of the status conference whenever possible.

2. Upon request from any party or upon request during a status conference, the court shall hold a protective custody hearing[. Such hearing shall be held within three] within fourteen days of the request for a hearing, excluding Saturdays, Sundays and legal holidays. No continuances shall be granted for such protective custody hearing except upon a written motion for

cause filed and signed by the party requesting the continuance and such party's attorney.

3. The court shall hold an adjudication hearing no later than sixty days after the child has been taken into custody. The court shall notify the parties in writing of the specific date, time, and place of such hearing. If at such hearing the court determines that sufficient cause exists for the child to remain in the custody of the state, the court shall conduct a dispositional hearing no later than ninety days after the child has been taken into custody and shall conduct review hearings regarding the reunification efforts made by the division every ninety to one hundred twenty days for the first year the child is in the custody of the division. After the first year, review hearings shall be held as necessary, but in no event less than once every six months for as long as the child is in the custody of the division.

4. At [the protective custody hearing] all hearings held pursuant to this section the court may receive testimony and other evidence relevant to the necessity of detaining the child out of the custody of the parents, guardian or custodian.

5. If the placement of any child in the custody of the division of family services will result in the child attending a school other than the school the child was attending when taken into custody:

(1) The child's records from such school shall automatically be forwarded to the school that the child is

transferring to upon notification by the division; or

(2) Upon request of the foster family and whenever possible, the child shall be permitted to continue to attend the same school that the child was enrolled in and attending at the time the child was taken into custody by the division. The division, in consultation with the department of elementary and secondary education, shall establish the necessary procedures to implement the provisions of this subsection.

211.059. 1. When a child is taken into custody by a juvenile officer or law enforcement official, with or without a warrant for an offense in violation of the juvenile code or the general law which would place the child under the jurisdiction of the juvenile court pursuant to subdivision (2) or (3) of subsection 1 of section 211.031, the child shall be advised prior to questioning:

(1) That he has the right to remain silent; and

(2) That any statement he does make to anyone can be and may be used against him; and

(3) That he has a right to have a parent, guardian or custodian present during questioning; and

(4) That he has a right to consult with an attorney and that one will be appointed and paid for him if he cannot afford one.

2. If the child indicates in any manner and at any stage of questioning pursuant to this section that he or she does not wish to be questioned further, or that the child wishes to have his or

her parent, legal guardian, custodian, or attorney present during questioning, the officer shall cease questioning.

3. Any interrogation of or interview with a child taken into custody by a juvenile officer or law enforcement official based on allegations of child abuse or neglect shall, whenever possible, be audiotape, videotape, or digitally recorded in its entirety, except for good cause shown based on the best interests of the child. For purposes of this subsection, "custody" means any situation in which a child has been deprived of his or her liberty to leave. Any failure to comply with the provisions of this subsection shall render any and all statements made by the child inadmissible in any future judicial proceeding.

211.171. 1. Except as otherwise provided in section 211.321, the procedure to be followed at the hearing shall be determined by the juvenile court judge and may be as formal or informal as he or she considers desirable, consistent with constitutional and statutory requirements. The judge may take testimony and inquire into the habits, surroundings, conditions and tendencies of the child and the family to enable the court to render such order or judgment as will best promote the welfare of the child and carry out the objectives of this chapter.

2. The hearing may, in the discretion of the court, proceed in the absence of the child and may be adjourned from time to time.

3. The current foster parents of a child, or any preadoptive parent or relative currently providing care for the

child, shall be provided with notice of, and an opportunity to be heard in, any [permanency or other review] hearing to be held with respect to the child. This subsection shall not be construed to require that any such foster parent, preadoptive parent or relative providing care for a child be made a party to the case solely on the basis of such notice and opportunity to be heard.

4. All cases of children shall be heard separately from the trial of cases against adults.

5. Stenographic notes or an authorized recording of the hearing shall be required if the court so orders [or], if requested by any party interested in the proceeding, or in accordance with section 211.321.

6. The general public shall be excluded and only such persons admitted as have a direct interest in the case or in the work of the court except in cases where the child is accused of conduct which, if committed by an adult, would be considered a class A or B felony; or for conduct which would be considered a class C felony, if the child has previously been formally adjudicated for the commission of two or more unrelated acts which would have been class A, B or C felonies, if committed by an adult.

7. The practice and procedure customary in proceedings in equity shall govern all proceedings in the juvenile court; except that, the court shall not grant a continuance in such proceedings absent compelling extenuating circumstances, and in such cases,

the court shall make written findings on the record detailing the specific reasons for granting a continuance.

8. The court shall allow the victim of any offense to submit a written statement to the court. The court shall allow the victim to appear before the court personally or by counsel for the purpose of making a statement, unless the court finds that the presence of the victim would not serve justice. The statement shall relate solely to the facts of the case and any personal injuries or financial loss incurred by the victim. A member of the immediate family of the victim may appear personally or by counsel to make a statement if the victim has died or is otherwise unable to appear as a result of the offense committed by the child.

211.181. 1. When a child or person seventeen years of age is found by the court to come within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child or person seventeen years of age, and the court may, by order duly entered, proceed as follows:

(1) Place the child or person seventeen years of age under supervision in his own home or in the custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may

require;

(2) Commit the child or person seventeen years of age to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes; except that, such child or person seventeen years of age may not be committed to the department of social services, division of youth services;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive the child or person seventeen years of age in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child or person seventeen years of age in a family home;

(4) Cause the child or person seventeen years of age to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child or person seventeen years of age requires it, cause the child or person seventeen years of age to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child or person seventeen



years of age whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) The court may order, pursuant to subsection 2 of section 211.081, that the child receive the necessary services in the least restrictive appropriate environment including home and community-based services, treatment and support, based on a coordinated, individualized treatment plan. The individualized treatment plan shall be approved by the court and developed by the applicable state agencies responsible for providing or paying for any and all appropriate and necessary services, subject to appropriation, and shall include which agencies are going to pay for and provide such services. Such plan must be submitted to the court within thirty days and the child's family shall actively participate in designing the service plan for the child or person seventeen years of age;

(6) The department of social services, in conjunction with the department of mental health, shall apply to the United States Department of Health and Human Services for such federal waivers as required to provide services for such children, including the acquisition of community-based services waivers.

2. When a child is found by the court to come within the provisions of subdivision (2) of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact upon which it exercises its jurisdiction over the child, the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or place them in family homes; except that, a child may be committed to the department of social services, division of youth services, only if he is presently under the court's supervision after an adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child in a family home;

(4) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for

treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court. Execution of any order entered by the court pursuant to this subsection, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed.

3. When a child is found by the court to come within the provisions of subdivision (3) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child, and the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Beginning January 1, 1996, the court may make further directions as to placement with the division of youth services concerning the child's length of stay. The length of stay order may set forth a minimum review date;

(4) Place the child in a family home;

(5) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(6) Suspend or revoke a state or local license or authority of a child to operate a motor vehicle;

(7) Order the child to make restitution or reparation for the damage or loss caused by his offense. In determining the

amount or extent of the damage, the court may order the juvenile officer to prepare a report and may receive other evidence necessary for such determination. The child and his attorney shall have access to any reports which may be prepared, and shall have the right to present evidence at any hearing held to ascertain the amount of damages. Any restitution or reparation ordered shall be reasonable in view of the child's ability to make payment or to perform the reparation. The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment ordered;

(8) Order the child to a term of community service under the supervision of the court or of an organization selected by the court. Every person, organization, and agency, and each employee thereof, charged with the supervision of a child under this subdivision, or who benefits from any services performed as a result of an order issued under this subdivision, shall be immune from any suit by the child ordered to perform services under this subdivision, or any person deriving a cause of action from such child, if such cause of action arises from the supervision of the child's performance of services under this subdivision and if such cause of action does not arise from an intentional tort. A child ordered to perform services under this subdivision shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo, nor shall the services of such child be deemed employment within the meaning of the provisions of chapter 288, RSMo. Execution of any order entered

by the court, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed;

(9) When a child has been adjudicated to have violated a municipal ordinance or to have committed an act that would be a misdemeanor if committed by an adult, assess an amount of up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been adjudicated to have committed an act that would be a felony if committed by an adult, assess an amount of up to fifty dollars to be paid by the child to the clerk of the court.

4. Beginning January 1, 1996, the court may set forth in the order of commitment the minimum period during which the child shall remain in the custody of the division of youth services. No court order shall require a child to remain in the custody of the division of youth services for a period which exceeds the child's eighteenth birth date except upon petition filed by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any order of commitment of a child to the custody of the division of youth services, the division shall determine the appropriate program or placement pursuant to subsection 3 of section 219.021, RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody of the division of youth services before the child completes the length of stay determined by the court in the commitment order

unless the committing court orders otherwise. The director of the division of youth services may at any time petition the court for a review of a child's length of stay commitment order, and the court may, upon a showing of good cause, order the early discharge of the child from the custody of the division of youth services. The division may discharge the child from the division of youth services without a further court order after the child completes the length of stay determined by the court or may retain the child for any period after the completion of the length of stay in accordance with the law.

5. When an assessment has been imposed under the provisions of subsection 2 or 3 of this section, the assessment shall be paid to the clerk of the court in the circuit where the assessment is imposed by court order, to be deposited in a fund established for the sole purpose of payment of judgments entered against children in accordance with section 211.185.

211.321. 1. Juvenile court proceedings conducted pursuant to subdivision (1) of subsection 1 of section 211.031 and for termination of parental rights cases pursuant to sections 211.442 to 211.487, except for adoption cases, shall be open to the public. The court, on its own motion, may close, in whole or in part, the proceedings to the public to protect the welfare and best interests of the child and for exceptional circumstances. Any victim or any party to a juvenile court proceeding referred to in this subsection, except the state, may file a verified motion requesting that the general public be excluded from the

proceeding or any portion of the proceeding. Upon the filing of such verified motion, the court shall hear arguments by the parties, but no evidence, and shall make a determination whether to exclude the general public from the proceedings or any portion of the proceedings. The court shall make a finding on the record when a motion to close a hearing or records pursuant to this section is made and heard by the court.

2. Notwithstanding the provisions of subsection 1 of this section, the general public shall be excluded from all juvenile court proceedings referred to in subsection 1 of this section during the testimony of any child or victim and only such persons who have a direct interest in the case or in the work of the court will be admitted to the proceedings.

3. All records shall be closed until the seventy-two hour status conference is held pursuant to section 211.032 and shall be open thereafter unless specifically closed by the court pursuant to this section. The seventy-two hour status conference held pursuant to section 211.032 shall be closed until arguments have been presented and the court has made a determination as to whether to close the hearings and records.

4. As appropriate, a record of the juvenile court hearings described in subsection 1 of this section shall be made and preserved by stenographic recording or by mechanical or electronic recording as provided by law or court rule.

5. For juvenile court proceedings described in subsection 1 of this section, pleadings and orders of the juvenile court other



than confidential files and those specifically ordered closed by the juvenile court judge shall be open to the general public. For purposes of this section, "confidential file" means all other records and reports considered closed or confidential by law, including but not limited to medical reports, psychological or psychiatric evaluations, investigation reports of the division of family services, social histories, and home studies. Only persons who are found by the court to have a legitimate interest shall be allowed access to confidential or closed files. In determining whether a person has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and safety of the public, and the interest of the minor. Any parent or party may waive confidentiality for himself or herself, but only the court may waive confidentiality for a minor child.

6. For records made available to the public pursuant to this section, the identity of the victim shall not be disclosed and all references in such records to the identity of the victim shall be redacted prior to disclosure to the public.

7. The court may, either on its own motion or upon application by the child or the child's representative, or upon application by the juvenile officer, enter an order to destroy all social histories, records, and information, other than the official court file, and may enter an order to seal the official court file, as well as all peace officers' records, at any time after the child has reached his or her seventeenth birthday if the court finds that it is in the best interest of the child that

such action or any part thereof be taken, unless the jurisdiction of the court is continued beyond the child's seventeenth birthday, in which event such action or any part thereof may be taken by the court at any time after the closing of the child's case.

8. The provisions of this section shall apply to juvenile court proceedings specified in this section which are initiated on or after August 28, 2003.

302.272. 1. No person shall operate any school bus owned by or under contract with a public school or the state board of education unless such driver has qualified for a school bus permit under this section and complied with the pertinent rules and regulations of the department of revenue. A school bus permit shall be issued to any applicant who meets the following qualifications:

(1) The applicant has a valid state license issued under this chapter or has a license valid in any other state;

(2) The applicant is at least twenty-one years of age;

(3) The applicant has passed a medical examination, including vision and hearing tests, as prescribed by the director of revenue and, if the applicant is at least seventy years of age, the applicant shall pass the medical examination annually to maintain or renew the permit; and

(4) The applicant has successfully passed an examination for the operation of a school bus as prescribed by the director of revenue. The examination shall include, but need not be

limited to, a written skills examination of applicable laws, rules and procedures, and a driving test in the type of vehicle to be operated. The test shall be completed in the appropriate class of vehicle to be driven. For purposes of this section classes of school buses shall comply with the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570).

2. Except as otherwise provided in this section, a school bus permit shall be renewed every three years and shall require the applicant to provide a medical examination as specified in subdivision (3) of subsection 1 of this section and to successfully pass a written skills examination as prescribed by the director of revenue in consultation with the department of elementary and secondary education. If the applicant is at least seventy years of age, the school bus permit shall be renewed annually, and the applicant shall successfully pass the examination prescribed in subdivision (4) of subsection 1 of this section prior to receiving the renewed permit. The director may waive the written skills examination on renewal of a school bus permit upon verification of the applicant's successful completion within the preceding twelve months of a training program which has been approved by the director in consultation with the department of elementary and secondary education and which is at least eight hours in duration with special instruction in school bus driving.

3. The fee for a new or renewed school bus permit shall be three dollars.

4. Upon the applicant's completion of the requirements of subsections 1, 2, and 3 of this section, the director of revenue shall issue a temporary school bus permit to the applicant until such time as a permanent school bus permit shall be issued following the record clearance as provided in subsection 6 of this section.

5. The director of revenue, to the best of the director's knowledge, shall not issue or renew a school bus permit to any applicant:

(1) Whose driving record shows that such applicant's privilege to operate a motor vehicle has been suspended, revoked or disqualified or whose driving record shows a history of moving vehicle violations;

(2) Who has pled guilty to or been found guilty of any felony or misdemeanor for violation of drug regulations as defined in chapter 195, RSMo; of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for prostitution as defined by chapter 567, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo; of any felony or misdemeanor for a weapons offense as defined by chapter 571, RSMo; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any

federal, state, municipal or other court of similar jurisdiction of which the director has knowledge;

(3) Who has pled guilty to or been found guilty of any felony involving robbery, arson, burglary or a related offense as defined by chapter 569, RSMo; or any similar crime in any federal, state, municipal or other court of similar jurisdiction within the preceding ten years of which the director has knowledge.

6. The [department of social services or the] Missouri highway patrol[, whichever has access to applicable records,] shall provide a record of clearance or denial of clearance for any applicant for a school bus permit for the [convictions] offenses specified in subdivisions (2) and (3) of subsection 5 of this section. The Missouri highway patrol in providing the record of clearance or denial of clearance for any such applicant is authorized to obtain from the Federal Bureau of Investigation any information which might aid the Missouri highway patrol in providing such record of clearance or denial of clearance. The [department of social services or the] Missouri highway patrol shall provide the record of clearance or denial of clearance within thirty days of the date requested, relying on information available at that time, except that the [department of social services or the] Missouri highway patrol shall provide any information subsequently discovered to the department of revenue.

7. Beginning January 1, 2004, the director shall request that the department of social services determine whether the

applicant is listed on the child abuse and neglect registry and shall require the applicant to submit two sets of fingerprints. One set of fingerprints shall be used by the highway patrol in order to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

8. The applicant shall pay the fee for the state criminal history information pursuant to section 43.530, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for the school bus permit pursuant to this section. The director shall distribute the fees collected for the state and federal criminal histories to the highway patrol.

9. The director may adopt any rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

352.400. 1. As used in this section, the following words and phrases shall mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse, injury or harm to a child under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo;

(2) "Child", any person regardless of physical or mental condition, under eighteen years of age;

(3) "Minister", any person while practicing as a minister of the gospel, clergyperson, priest, rabbi, Christian Science practitioner, or other person serving in a similar capacity for any religious organization who is responsible for or who has supervisory authority over one who is responsible for the care, custody, and control of a child or has access to a child;

(4) "Neglect", failure to provide the proper or necessary support or services by those responsible for the care, custody, and control of a child, under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo;

(5) "Religious organization", any society, sect, persuasion, mission, church, parish, congregation, temple, convention or association of any of the foregoing, diocese or presbytery, or other organization, whether or not incorporated, that meets at more or less regular intervals for worship of a supreme being or higher power, or for mutual support or edification in piety or with respect to the idea that a minimum standard of behavior from the standpoint of overall morality is

to be observed, or for the sharing of common religious bonds and convictions;

(6) "Report", the communication of an allegation of abuse or neglect pursuant to sections 210.109 to 210.183, RSMo.

2. When a minister or agent designated pursuant to subsection 3 of this section has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo, the minister or designated agent shall immediately report or cause a report to be made as provided in sections 210.109 to 210.183, RSMo. Notwithstanding any other provision of this section or sections 210.109 to 210.183, RSMo, a minister shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.

3. A religious organization may designate an agent or agents required to report pursuant to sections 210.109 to 210.183, RSMo, in an official capacity on behalf of the religious organization. In the event a minister, official or staff member of a religious organization has probable cause to believe that the child has been subjected to abuse or neglect under circumstances required to be reported pursuant to sections 210.109 to 213.183, RSMo, and the minister, official or staff member of the religious organization does not personally make a report pursuant to sections 210.109 to 210.183, RSMo, the designated agent of the religious organization shall be notified.



The designated agent shall then become responsible for making or causing the report to be made pursuant to sections 210.109 to 210.183, RSMo. This section shall not preclude any person from reporting abuse or neglect as otherwise provided by law.

402.199. 1. The general assembly hereby finds and declares the following:

(1) It is an essential function of state government to provide basic support for persons with a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease;

(2) The cost of providing basic support for persons with a mental or physical impairment is difficult for many to afford and they are forced to rely upon the government to provide such support;

(3) Families and friends of persons with a mental or physical impairment desire to supplement, but not replace, the basic support provided by state government and other governmental programs;

(4) The cost of medical, social or other supplemental services is often provided by families and friends of persons with mental or physical impairments, for the lifetime of such persons;

(5) It is in the best interest of the people of this state to encourage, enhance and foster the ability of families and friends of Missouri residents and residents of adjacent states

with mental or physical impairments to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide for medical, social or other supplemental services for such persons;

(6) Permitting and assisting families and friends of Missouri residents and residents of adjacent states with mental or physical impairments to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide medical, social or other supplemental services for such persons as necessary and desirable for the public health, safety and welfare of this state.

2. In light of the findings and declarations described in subsection 1 of this section, the general assembly declares the purpose of the Missouri family trust to be the encouragement, enhancement and fostering of the provision of medical, social or other supplemental services for persons with a mental or physical impairment by family and friends of such persons.

402.200. As used in sections 402.199 to 402.220, the following terms mean:

(1) "Board of trustees", the Missouri family trust board of trustees;

(2) "Charitable trust", the trust established to provide benefits for individuals, as set forth in section 402.215;

(3) "Department", the department of mental health;

(4) "Disability", a mental or physical impairment that substantially limits one or more major life activities, whether

the impairment is congenital or acquired by accident, injury or disease, and where the impairment is verified by medical findings;

(5) "Life beneficiary" or "beneficiary", a designated beneficiary of the Missouri family trust;

(6) "Net income", the earnings received on investments less administrative expenses and fees;

(7) "Principal balance", the fair market value of all contributions made to a particular account, less distributions, determined as of the end of the calendar month immediately preceding the occurrence giving rise to any determination of principal balance;

(8) "Requesting party", the party desiring arbitration;

(9) "Responding party", the other party in arbitration of a dispute regarding benefits to be provided by the trust;

(10) "Successor trust", the trust established upon distribution by the board of trustees pursuant to notice of withdrawal or termination and administered as set forth in section 402.215;

(11) "Trust", the Missouri family trust established pursuant to sections 402.200 to 402.220;

(12) "Trustee", a member of the Missouri family trust board of trustees.

402.205. 1. The families, friends and guardians of persons who have a disability or are eligible for services provided by the department of mental health, or both, may participate in a

trust which may supplement the care, support, and treatment of such persons pursuant to the provisions of sections 402.199 to 402.220. Neither the contribution to the trust for the benefit of a life beneficiary nor the use of trust income to provide benefits shall in any way reduce, impair or diminish the benefits to which such person is otherwise entitled by law; and the administration of the trust shall not be taken into consideration in appropriations for the department of mental health to render services required by law.

2. Unless otherwise prohibited by federal statutes or regulations, all state agencies shall disregard the trust as a resource when determining eligibility of Missouri residents for assistance under chapter 208, RSMo.

3. The assets of the board of trustees and assets held in trust pursuant to the provisions of sections 402.199 to 402.220 shall not be considered state money, assets of the state or revenue for any purposes of the state constitution or statutes. The property of the board of trustees and its income and operations shall be exempt from all taxation by the state or any of its political subdivisions.

402.215. 1. The board of trustees is authorized and directed to establish and administer the Missouri family trust and to advise, consult with, and render services to departments and agencies of the state of Missouri and to other nonprofit organizations which qualify as organizations pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as

amended, and which provide services to Missouri residents with a disability. The board shall be authorized to execute all documents necessary to establish and administer the trust including the formation of a not-for-profit corporation created pursuant to chapter 355, RSMo, and to qualify as an organization pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

2. The trust documents shall include and be limited by the following provisions:

(1) The Missouri family trust shall be authorized to accept contributions from any source including trustees, personal representatives, personal custodians pursuant to chapter 404, RSMo, and other fiduciaries, [other than directly] and, subject to the provisions of subdivision (11) of this subsection, from the life beneficiaries and their respective spouses, to be held, administered, managed, invested and distributed in order to facilitate the coordination and integration of private financing for individuals who have a disability or are eligible for services provided by the Missouri department of mental health, or both, while maintaining the eligibility of such individuals for government entitlement funding. All contributions, and the earnings thereon, shall be administered as one trust fund; however, separate accounts shall be established for each designated beneficiary. The income earned, after deducting administrative expenses, shall be credited to the accounts of the respective life beneficiaries in proportion to the principal

balance in the account for each such life beneficiary, to the total principal balances in the accounts for all life beneficiaries.

(2) Every donor may designate a specific person as the life beneficiary of the contribution made by such donor. In addition, each donor may name a cotrustee, including the donor, and a successor or successors to the cotrustee, to act with the trustees of the trust on behalf of the designated life beneficiary; provided, however, a life beneficiary shall not be eligible to be a cotrustee or a successor cotrustee; provided, however, that court approval of the specific person designated as life beneficiary and as cotrustee or successor trustee shall be required in connection with any trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo.

(3) The [trust] cotrustee, with the consent of the [cotrustee] trust, shall from time to time, but not less frequently than annually [agree on] determine the amount of income or principal or income and principal to be used to provide noncash benefits and the nature and type of benefits to be provided for the life beneficiary. Any net income which is not used shall be added to principal annually. [In the event that the trust and the donor, serving as the cotrustee, shall be unable to agree either on the amount of income or principal or income and principal to be used for or the benefits to be provided, then none of the income or principal shall be used.] In the event that the trust and the cotrustee[, other than the

donor,] shall be unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the trust or the cotrustee shall have the right to request that the matter be resolved by arbitration which shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The requesting party shall send a written request for arbitration to the responding party and shall in such request set forth the name, address and telephone number of such requesting party's arbitrator. The responding party shall, within ten days after receipt of the request for arbitration, set forth in writing to the requesting party the name, address and telephone number of the responding party's arbitrator. Copies of the request for arbitration and response shall be sent to the director of the department. If the two designated arbitrators shall be unable to agree upon a third arbitrator within ten days after the responding party shall have identified such party's arbitrator, then the director of the department shall designate the third arbitrator by written notice to the requesting and responding parties' arbitrators. The three arbitrators shall meet, conduct a hearing, and render a decision within thirty days after the appointment of the third arbitrator. A decision of a majority of the arbitrators shall be binding upon the requesting and responding parties. Each party shall pay the fees and expenses of such party's arbitrator and the fees and expenses of the third arbitrator shall be borne equally by the parties. Judgment on

the arbitrators' award may be entered in any court of competent jurisdiction.

(4) Any donor, during his or her lifetime, except for a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, may revoke any gift made to the trust; provided, however, any donor may, at any time, voluntarily waive the right to revoke. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall not have received any benefits provided by use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be returned to the donor. Any undistributed net income shall be distributed to the charitable trust. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall have received any benefits provided by the use of trust income or principal, then an amount equal to ninety percent of the principal balance shall be returned to the donor. The balance of the principal balance together with all undistributed net income, shall be distributed to the charitable trust.

(5) Any acting cotrustee, except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, other than the original donor of a life beneficiary's account, shall have the right, for good and sufficient reason upon written notice to the trust and the department stating such reason, to withdraw all or a portion of the principal balance. In such event, the applicable portion, as set forth [below] in



subdivision (7) of this subsection, of the principal balance shall then be distributed to the successor trust and the balance of the principal balance together with any undistributed net income, shall be distributed to the charitable trust.

(6) In the event that a life beneficiary for whose benefit a contribution or contributions shall have been made to the family trust, [except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo,] shall [move from the state of Missouri or otherwise] cease to be eligible for services provided by the department of mental health and neither the donor nor the then acting cotrustee, except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, shall revoke or withdraw [all] the applicable portion, as set for in subdivision (7) of this subsection, of the principal balance, then the board of trustees may, by written notice to such donor or acting cotrustee, terminate the trust as to such beneficiary and thereupon shall distribute the applicable portion, as set forth [herein] in subdivision (7) of this subsection, of the principal balance, to the trustee of the successor trust to be held, administered and distributed by such trustee in accordance with the provisions of the successor trust described in subdivision [(10)] (12) of this subsection.

(7) If at the time of withdrawal or termination as provided in subdivision (6) of this subsection of a life beneficiary's account from the trust either the life beneficiary shall not have received any benefits provided by the use of the trust income or

principal or the life beneficiary shall have received benefits provided by the use of trust income or principal for a period of not more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to ninety percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income, shall be distributed to the charitable trust; provided, however, if the life beneficiary at the time of such withdrawal by the cotrustee or termination as provided above shall have received any benefits provided by the use of trust income or principal for a period of more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to seventy-five percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income, shall be distributed to the charitable trust.

(8) Subject to the provisions of subdivision (9) of this subsection, if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons as the donor shall have designated. Any undistributed net income shall be distributed to the charitable trust. If at the time of death of the life beneficiary, the life beneficiary shall have been

receiving benefits provided by the use of trust income or principal or income and principal, then, in such event, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons as the donor designated, and the balance of the principal balance, together with all undistributed net income, shall be distributed to the charitable trust.

(9) In the event the trust is created as a result of a distribution from a personal representative of an estate of which the life beneficiary is a distributee, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. [The balance, if any, of the principal balance, together with all] Any undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance of the principal balance, together with all undistributed income shall be distributed to the charitable trust.

(10) In the event the trust is created as a result of the

recovery of damages by reason of a personal injury to the life beneficiary, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. If there are no heirs, the balance, if any, of the principal balance, together with all undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary should have been receiving benefits provided by the use of trust income or principal or income and principal then the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. If there are no heirs, the balance of the principal balance, together with all undistributed income,

shall be distributed to the charitable trust.

(11) In the event an account is established with the assets of the beneficiary by the beneficiary, a family member, the beneficiary's guardian, or pursuant to a court order, all in accordance with Title 42 of the United States Code Section 1396p(d)(4)(C), then upon the death of the life beneficiary the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. If there are no heirs, the balance of the principal balance, together with all undistributed income, shall be distributed to the charitable trust.

(12) Notwithstanding the provisions of subdivisions (4) to (8) of this subsection to the contrary, the donor may voluntarily agree to a smaller percentage of the principal balance in any account established by such donor than is provided in this subsection to be returned to the donor or distributed to the successor trust, as the case may be; and a corresponding larger percentage of the principal balance in such account to be distributed either to the charitable trust or to a designated restricted account within the charitable trust.

(13) Upon receipt of a notice of withdrawal from a

designated cotrustee, other than the original donor, and a determination by the board of trustees that the reason for such withdrawal is good and sufficient, or upon the issuance of notice of termination by the board of trustees, the board of trustees shall distribute and pay over to the designated trustee of the successor trust the applicable portion of the principal balance as set forth in subdivision (7) of this subsection; provided, however, that court approval of distribution to a successor trustee shall be required in connection with any trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo. The designated trustee of the successor trust shall hold, administer and distribute the principal and income of the successor trust, in the discretion of such trustee, for the maintenance, support, health, education and general well-being of the beneficiary, recognizing that it is the purpose of the successor trust to supplement, not replace, any government benefits for the beneficiary's basic support to which such beneficiary may be entitled and to increase the quality of such beneficiary's life by providing the beneficiary with those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. Permissible expenditures include, but are not limited to, more sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, entertainment, periodic vacations and outings, expenditures to foster the interests, talents and hobbies of the

beneficiary, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the beneficiary but which will not defeat his or her eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the beneficiary. The designated trustee, in his or her discretion, may make payments from time to time for a person to accompany the beneficiary on vacations and outings and for the transportation of the beneficiary or of friends and relatives of the beneficiary to visit the beneficiary. Any undistributed income shall be added to the principal from time to time. Expenditures shall not be made for the primary support or maintenance of the beneficiary, including basic food, shelter and clothing, if, as a result, the beneficiary would no longer be eligible to receive public benefits or assistance to which the beneficiary is then entitled. After the death and burial of the beneficiary, the remaining balance of the successor trust shall be distributed to such person or persons as the donor shall have designated.

[(12)] (14) The charitable trust shall be administered as part of the family trust, but as a separate account. The income attributable to the charitable trust shall be used to provide benefits for individuals who have a disability or who are eligible for services provided by or through the department and who either have no immediate family or whose immediate family, in the reasonable opinion of the trustees, is financially unable to make a contribution to the trust sufficient to provide benefits

for such individuals, while maintaining such individuals' eligibility for government entitlement funding. As used in this section, the term "immediate family" includes parents, children and siblings. The individuals to be beneficiaries of the charitable trust shall be recommended to the trustees by the department and others from time to time. The trustees shall annually [agree on] determine the amount of charitable trust income to be used to provide benefits and the nature and type of benefits to be provided for each identified beneficiary of the charitable trust. Any income not used shall be added to principal annually.

(15) Any person, with the consent of the board of trustees, may establish a restricted account within the charitable trust and shall be permitted to determine, with the consent of the board of trustees, the beneficiaries of such restricted account provided such beneficiaries qualify as participants of the trust as set forth in subsection 1 of section 402.305.

402.217. 1. No beneficiary shall have any vested or property rights or interests in the family trust, nor shall any beneficiary have the power to anticipate, assign, convey, alienate, or otherwise encumber any interest in the income or principal of the family trust , nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by such beneficiary, nor shall the principal or income of the family trust be subject to seizure by any creditor or any beneficiary under any writ or proceeding in



law or in equity.

2. Except for the right of a donor to revoke any gift made to the trust, pursuant to subdivision (4) of subsection 2 of section 402.215, and the right of any acting cotrustee, other than the original donor, to withdraw all or a portion of the [original contribution] principal balance, pursuant to subdivision (5) of subsection 2 of section 402.215, neither the donor nor any acting cotrustee shall have the right to sell, assign, convey, alienate or otherwise encumber, for consideration or otherwise, any interest in the income or principal of the family trust, nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by the donor or any acting cotrustee, nor shall the principal or income of the family trust be subject to seizure by any creditor of any donor or any acting cotrustee under any writ or proceeding in law or in equity.

453.020. 1. The petition for adoption shall state:

(1) The name, sex and place of birth of the person sought to be adopted;

(2) The name of his parents, if known to the petitioner;

(3) If the person sought to be adopted is a minor, the fact that petitioner has the ability to properly care for, maintain and educate such person; and

(4) If it is desired to change the name of such person, the new name.

2. The petition for adoption shall include payment of a

fifty dollar filing fee which shall be used to fund the putative father registry established pursuant to section 192.016, RSMo.

453.060. 1. A writ of summons and a copy of the petition shall be served on:

(1) Any person, agency, organization or institution whose consent to the adoption is required by law unless such consent is filed in court;

(2) Any person whose consent to the adoption, according to the allegation of the petition for adoption, is not required for the reasons set forth in subdivision (6) or (7) of section 453.040;

(3) Any person, agency, organization or institution, within or without the state, having custody of the child sought to be adopted under a decree of a court of competent jurisdiction even though its consent to the adoption is not required by law;

(4) The legally appointed guardian of the child;

(5) Any person adjudicated by a court of this state or another state, a territory of the United States or another country to be the father of the child;

(6) Any person who has timely filed a notice of intent to claim paternity of the child pursuant to section 192.016, RSMo, or an acknowledgment of paternity pursuant to section 193.087, RSMo.

2. Except as provided in this section and section 453.014, it is not necessary to serve any person, agency, organization or institution whose consent is not required pursuant to the

provisions of sections 453.030 to 453.050.

3. If service of summons cannot be made in the manner prescribed in section 506.150, RSMo, then the service shall be made by mail or publication as provided in section 506.160, RSMo.

4. Upon service, whether personal or constructive, the court may act upon the petition without the consent of any party, except that of a parent whose consent is required by sections 453.030 to 453.050, and the judgment is binding on all parties so served. Any such party has the right to appeal from the judgment in the manner and form provided by the civil code of Missouri.

5. In all cases where the putative father is unknown, [service shall be made by publication on "John Doe" as provided in section 506.160, RSMo] a search of the Missouri putative father registry and another state's registry if the child was born in another state shall be conducted to determine if a man has filed or been registered with the registry. If such a man is discovered, service shall be carried out according to the provisions of this section.

6. Upon request, the court may order that the writ of summons and copy of the petition required by this section may be served without the names and addresses of the petitioners when the court deems it to be in the best interests of the child.

453.061. Any man who has engaged in sexual intercourse with a woman is deemed to be on legal notice that as a result a child may be conceived and the man is entitled to all legal rights and obligations resulting therefrom.

453.110. 1. No person, agency, organization or institution shall surrender custody of a minor child, or transfer the custody of such a child to another, and no person, agency, organization or institution shall take possession or charge of a minor child so transferred, without first having filed a petition before the circuit court sitting as a juvenile court of the county where the child may be, praying that such surrender or transfer may be made, and having obtained such an order from such court approving or ordering transfer of custody.

2. If any such surrender or transfer is made without first obtaining such an order, such court shall, on petition of any public official or interested person, agency, organization or institution, order an investigation and report as described in section 453.070 to be completed by the division of family services and shall make such order as to the custody of such child in the best interest of such child.

3. Any person violating the terms of this section shall be guilty of a class D felony.

4. The investigation required by subsection 2 of this section shall be initiated by the division of family services within forty-eight hours of the filing of the court order requesting the investigation and report and shall be completed within thirty days. The court shall order the person having custody in violation of the provisions of this section to pay the costs of the investigation and report.

5. This section shall not be construed to prohibit any

parent, agency, organization or institution from placing a child [in a family home] with another person for care if the right to supervise the care of the child and to resume custody thereof is retained, or from placing a child with a licensed foster home within the state through a child placing agency licensed by this state as part of a preadoption placement.

6. After the filing of a petition for the transfer of custody for the purpose of adoption, the court may enter an order of transfer of custody if the court finds all of the following:

(1) A family assessment has been made as required in section 453.070 and has been reviewed by the court;

(2) A recommendation has been made by the guardian ad litem;

(3) A petition for transfer of custody for adoption has been properly filed or an order terminating parental rights has been properly filed;

(4) The financial affidavit has been filed as required under section 453.075;

(5) The written report regarding the child who is the subject of the petition containing the information has been submitted as required by section 453.026;

(6) Compliance with the Indian Child Welfare Act, if applicable; and

(7) Compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620, RSMo.

7. A hearing on the transfer of custody for the purpose of

adoption is not required if:

- (1) The conditions set forth in subsection 6 of this section are met;
- (2) The parties agree and the court grants leave; and
- (3) Parental rights have been terminated pursuant to section 211.444 or 211.447, RSMo.

475.024. A parent of a minor, by a properly executed power of attorney, may delegate to another [individual,] person for a period not exceeding one year, any of his powers regarding care or custody of the minor child, except his power to consent to marriage or adoption of the minor child.

491.075. 1. A statement made by a child under the age of [twelve] fourteen relating to an offense under chapter 565, 566 or 568, RSMo, performed with or on a child by another, not otherwise admissible by statute or court rule, is admissible in evidence in criminal proceedings in the courts of this state as substantive evidence to prove the truth of the matter asserted if:

- (1) The court finds, in a hearing conducted outside the presence of the jury that the time, content and circumstances of the statement provide sufficient indicia of reliability; and
- (2)
  - (a) The child testifies at the proceedings; or
  - (b) The child is unavailable as a witness; or
  - (c) The child is otherwise physically available as a witness but the court finds that the significant emotional or psychological trauma which would result from testifying in the

personal presence of the defendant makes the child unavailable as a witness at the time of the criminal proceeding.

2. Notwithstanding subsection 1 of this section or any provision of law or rule of evidence requiring corroboration of statements, admissions or confessions of the defendant, and notwithstanding any prohibition of hearsay evidence, a statement by a child when under the age of [twelve] fourteen who is alleged to be victim of an offense under chapter 565, 566 or 568, RSMo, is sufficient corroboration of a statement, admission or confession regardless of whether or not the child is available to testify regarding the offense.

3. A statement may not be admitted under this section unless the prosecuting attorney makes known to the accused or [his] the accused's counsel his or her intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the accused or [his] the accused's counsel with a fair opportunity to prepare to meet the statement.

4. Nothing in this section shall be construed to limit the admissibility of statements, admissions or confessions otherwise admissible by law.

492.304. 1. In addition to the admissibility of a statement under the provisions of section 492.303, the visual and aural recording of a verbal or nonverbal statement of a child when under the age of [twelve] fourteen who is alleged to be a victim of an offense under the provisions of chapter 565, 566 or

568, RSMo, is admissible into evidence if:

(1) No attorney for either party was present when the statement was made; except that, for any statement taken at a state-funded child assessment center as provided for in subsection 2 of section 210.001, RSMo, an attorney representing the state of Missouri in a criminal investigation may, as a member of a multidisciplinary investigation team, observe the taking of such statement, but such attorney shall not be present in the room where the interview is being conducted;

(2) The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(3) The recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and has not been altered;

(4) The statement was not made in response to questioning calculated to lead the child to make a particular statement or to act in a particular way;

(5) Every voice on the recording is identified;

(6) The person conducting the interview of the child in the recording is present at the proceeding and available to testify or be cross-examined by either party; and

(7) The defendant or the attorney for the defendant is afforded an opportunity to view the recording before it is offered into evidence.

2. If the child does not testify at the proceeding, the visual and aural recording of a verbal or nonverbal statement of



the child shall not be admissible under this section unless the recording qualifies for admission under section 491.075, RSMo.

3. If the visual and aural recording of a verbal or nonverbal statement of a child is admissible under this section and the child testifies at the proceeding, it shall be admissible in addition to the testimony of the child at the proceeding whether or not it repeats or duplicates the child's testimony.

4. As used in this section, a nonverbal statement shall be defined as any demonstration of the child by his or her actions, facial expressions, demonstrations with a doll or other visual aid whether or not this demonstration is accompanied by words.

516.600. Any action to recover damages for injury or illness caused by child sexual abuse in an action brought pursuant to section 537.046 shall be commenced within twelve years of the date the plaintiff attains the age of eighteen or within three years of the date that the plaintiff discovers, or reasonably should have discovered, that the injury or illness was caused by child sexual abuse, whichever occurs later.

537.046. 1. As used in this section, the following terms mean:

(1) "Childhood sexual abuse", any act committed by the defendant against the plaintiff which act occurred when the plaintiff was under the age of eighteen years and which act would have been a violation of section 566.030, 566.040, 566.050, 566.060, 566.070, 566.080, 566.090, 566.100, 566.110, or 566.120, RSMo, or section 568.020, RSMo;

(2) "Injury" or "illness", either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

2. [In any civil action for recovery of damages suffered as a result of childhood sexual abuse, the time for commencement of the action shall be within five years of the date the plaintiff attains the age of eighteen or within three years of the date the plaintiff discovers or reasonably should have discovered that the injury or illness was caused by child sexual abuse, whichever later occurs.

3.] This section shall apply to any action commenced on or after August 28, 1990, including any action which would have been barred by the application of the statute of limitation applicable prior to that date.

630.097. The department of mental health, in conjunction with the department of social services, shall develop, implement, and administer a unified accountable comprehensive children's mental health service system. To ensure a full breadth of services, the system shall include all state agencies and organizations involved in the lives of the children served. The system shall include collaboration with family members, the departments of health and senior services; social services, division of family services, division of youth services, and division of medical services; elementary and secondary education; mental health, division of alcohol and drug abuse, division of

mental retardation and developmental disabilities, and division of comprehensive psychiatric services; and the office of state courts administrators, juvenile justice, schools, and private, not-for-profit child-serving agencies, including a limited liability corporation solely owned by a not-for-profit. The department of mental health shall establish a state interagency comprehensive children's mental health service system team comprised of representation from the departments of health and senior services; social services, division of family services, division of youth services, and division of medical services; elementary and secondary education; mental health, division of alcohol and drug abuse, division of mental retardation and developmental disabilities, and division of comprehensive psychiatric services; and the office of state courts administrators, juvenile justice; and family members, to serve children with severe emotional and behavioral disturbance problems. The state team shall collaborate to develop uniform language to be used in intake, assessment, and other tools to be used with children. The comprehensive children's mental health services system shall:

(1) Be child centered, family focused, and family driven, with the needs of the child and family dictating the types and mix of services provided, and shall include the families as full participants in all aspects of the planning and delivery of services;

(2) Provide community-based mental health services to

children and their families in the context in which the children live and attend school;

(3) Respond in a culturally competent and responsive manner;

(4) Stress prevention and early identification and intervention;

(5) Assure access to a continuum of services that:

(a) Educate the community about the mental health needs of children;

(b) Address the unique physical, emotional, social, and educational needs of children;

(c) Are coordinated with the range of social and human services provided to children and their families by the departments of elementary and secondary education, social services, health and senior services, and public safety, and the family courts;

(d) Provide a comprehensive array of services through an individualized service plan;

(e) Provide services in the least restrictive environment possible;

(f) Are appropriate to the developmental needs of children;

(6) Include early screening and prompt intervention to:

(a) Identify and treat the mental health needs of children in the least restrictive environment appropriate to their needs; and

(b) Prevent further deterioration;

(7) Address the unique problems of paying for mental health services for children, including:

(a) Access to private insurance coverage;

(b) Public funding; and

(c) Private funding and services;

(8) Include the child and the child's family in all aspects of planning, service delivery, and evaluation;

(9) Assure a smooth transition from mental health services appropriate for a child to mental health services needed by a person who is at least nineteen years of age; and

(10) Coordinate a service delivery system inclusive of services, providers, and schools that have traditionally served children and youth with severe emotional and behavioral disturbance problems, and their families through state agencies that serve on the state comprehensive children's mental health services system team.

630.140. 1. Information and records compiled, obtained, prepared or maintained by the residential facility, day program operated, funded or licensed by the department or otherwise, specialized service, or by any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632, RSMo, in the course of providing services to either voluntary or involuntary patients, residents or clients shall be confidential.

2. The facilities or programs shall disclose information and records including medication given, dosage levels, and

individual ordering such medication to the following upon their request:

- (1) The parent of a minor patient, resident or client;
- (2) The guardian or other person having legal custody of the patient, resident or client;
- (3) The attorney of a patient, resident or client who is a ward of the juvenile court, an alleged incompetent, an incompetent ward or a person detained under chapter 632, RSMo, as evidenced by court orders of the attorney's appointment;
- (4) An attorney or personal physician as authorized by the patient, resident or client;
- (5) Law enforcement officers and agencies, information about patients, residents or clients committed pursuant to chapter 552, RSMo, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement officers shall be obligated to keep such information confidential;
- (6) The entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. 6042. The entity or agency shall be able to obtain access to the records of a person with developmental disabilities who is a client of the entity or agency if such person has authorized the entity or agency to have such access; and the records of any person with developmental disabilities who, by reason of mental or physical condition is unable to authorize the entity or agency to have

such access, if such person does not have a legal guardian, conservator or other legal representative, and a complaint has been received by the entity or agency with respect to such person or there is probable cause to believe that such person has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section;

(7) The entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801 shall be able to obtain access to the records of a patient, resident or client who by reason of mental or physical condition is unable to authorize the system to have such access, who does not have a legal guardian, conservator or other legal representative and with respect to whom a complaint has been received by the system or there is probable cause to believe that such individual has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section. The provisions of this subdivision shall apply to a person who has a significant mental illness or impairment as determined by a mental health professional qualified under the laws and regulations of the state;

(8) To mental health coordinators, but only to the extent necessary to carry out their duties under chapter 632, RSMo.

3. The facilities or services may disclose information and records under any of the following:

- (1) As authorized by the patient, resident or client;
- (2) To persons or agencies responsible for providing health care services to such patients, residents or clients;
- (3) To the extent necessary for a recipient to make a claim or for a claim to be made on behalf of a recipient for aid or insurance;
- (4) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, program evaluations or similar studies; provided, that such personnel shall not identify, directly or indirectly, any individual patient, resident or client in any report of such research, audit or evaluation, or otherwise disclose patient, resident or client identities in any manner;
- (5) To the courts as necessary for the administration of chapter 211, RSMo, 475, RSMo, 552, RSMo, or 632, RSMo;
- (6) To law enforcement officers or public health officers, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement and public health officers shall be obligated to keep such information confidential;
- (7) Pursuant to an order of a court or administrative agency of competent jurisdiction;
- (8) To the attorney representing petitioners, but only to the extent necessary to carry out their duties under chapter 632, RSMo;
- (9) To the department of social services or the department



of health and senior services as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents, or clients;

(10) To a county board established pursuant to sections 205.968 to 205.972, RSMo 1986, but only to the extent necessary to carry out their statutory responsibilities. The county board shall not identify, directly or indirectly, any individual patient, resident or client.

4. The facility or program shall document the dates, nature, purposes and recipients of any records disclosed under this section and sections 630.145 and 630.150.

5. The records and files maintained in any court proceeding under chapter 632, RSMo, shall be confidential and available only to the patient, his attorney, guardian, or, in the case of a minor, to a parent or other person having legal custody of the patient, and to the petitioner and his attorney. In addition, the court may order the release or use of such records or files only upon good cause shown, and the court may impose such restrictions as the court deems appropriate.

6. Nothing contained in this chapter shall limit the rights of discovery in judicial or administrative procedures as otherwise provided for by statute or rule.

7. The fact of admission of a voluntary or involuntary patient to a mental health facility under chapter 632, RSMo, may only be disclosed as specified in subsections 2 and 3 of this section.

630.167. 1. Upon receipt of a report, the department or its agents, contractors or vendors or the department of health and senior services, if such facility or program is licensed pursuant to chapter 197, RSMo, shall initiate an investigation within twenty-four hours.

2. If the investigation indicates possible abuse or neglect of a patient, resident or client, the investigator shall refer the complaint together with the investigator's report to the department director for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate removal from a facility not operated or funded by the department is necessary to protect the residents from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the residents in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the resident for a period not to exceed thirty days.

3. (1) Reports referred to in section 630.165 and the investigative reports referred to in this section shall be confidential, shall not be deemed a public record, and shall not be subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo; except that: complete copies all such reports shall

be open and available to the parents or other guardian of the patient, resident, or client who is the subject of such report, except that the names and any other descriptive information of the complainant or other person mentioned in the reports shall not be disclosed unless such complainant or person specifically consents to such disclosure. All reports referred to in this section shall be admissible in any judicial proceedings or hearing in accordance with section 36.390, RSMo, or any administrative hearing before the director of the department of mental health, or the director's designee. All such reports may be disclosed by the department of mental health to law enforcement officers and public health officers, but only to the extent necessary to carry out the responsibilities of their offices, and to the department of social services, to the department of health and senior services, and to boards appointed pursuant to sections 205.968 to 205.990, RSMo, that are providing services to the patient, resident or client as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents or clients provided that all such law enforcement officers, public health officers, department of social services' officers, department of health and senior services officers, and boards shall be obligated to keep such information confidential;

(2) Except as otherwise provided in this section, the proceedings, findings, deliberations, reports and minutes of committees of health care professionals as defined in section

537.035, RSMo, or mental health professionals as defined in section 632.005, RSMo, who have the responsibility to evaluate, maintain, or monitor the quality and utilization of mental health services are privileged and shall not be subject to the discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible into evidence into any judicial or administrative action for failure to provide adequate or appropriate care. Such committees may exist, either within department facilities or its agents, contractors, or vendors, as applicable. Except as otherwise provided in this section, no person who was in attendance at any investigation or committee proceeding shall be permitted or required to disclose any information acquired in connection with or in the course of such proceeding or to disclose any opinion, recommendation or evaluation of the committee or board or any member thereof; provided, however, that information otherwise discoverable or admissible from original sources is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before any committee or in the course of any investigation, nor is any member, employee or agent of such committee or other person appearing before it to be prevented from testifying as to matters within their personal knowledge and in accordance with the other provisions of this section, but such witness cannot be questioned about the testimony or other proceedings before any investigation or before any committee;

(3) Nothing in this section shall limit authority otherwise provided by law of a health care licensing board of the state of Missouri to obtain information by subpoena or other authorized process from investigation committees or to require disclosure of otherwise confidential information relating to matters and investigations within the jurisdiction of such health care licensing boards; provided, however, that such information, once obtained by such board and associated persons, shall be governed in accordance with the provisions of this subsection;

(4) Nothing in this section shall limit authority otherwise provided by law in subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. 6042 and the entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this section shall serve to negate assurances that have been given by the governor of Missouri to the U.S. Administration on Developmental Disabilities, Office of Human Development Services, Department of Health and Human Services concerning access to records by the agency designated as the protection and advocacy system for the state of Missouri. However, such information, once obtained by such entity or agency, shall be governed in accordance with the provisions of this subsection.

4. Anyone who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil liability for making such a report or for testifying unless such person acted in bad faith or with malicious purpose.

5. Within five working days after a report required to be made pursuant to this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

6. No person who directs or exercises any authority in a residential facility, day program or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which he or she has reasonable cause to believe has been committed or has occurred.

7. Any person who is discharged as a result of an administrative substantiation of allegations contained in a report of abuse or neglect may, after exhausting administrative remedies as provided in chapter 36, RSMo, appeal such decision to the circuit court of the county in which such person resides within ninety days of such final administrative decision. The court may accept an appeal up to twenty-four months after the party filing the appeal received notice of the department's determination, upon a showing that:

(1) Good cause exists for the untimely commencement of the request for the review;

(2) If the opportunity to appeal is not granted it will adversely affect the party's opportunity for employment; and

(3) There is no other adequate remedy at law.

630.170. 1. A person who is listed on the department of mental health disqualification registry pursuant to this section, who is listed on the department of social services, or the department of health and senior services employee disqualification list pursuant to section 660.315, RSMo, or who has been convicted of, pled guilty to or nolo contendere to any crime pursuant to section 630.155 or 630.160 shall be disqualified from holding any position in any public or private facility or day program operated, funded or licensed by the department or in any mental health facility or mental health program in which people are admitted on a voluntary or involuntary basis or are civilly detained pursuant to chapter 632, RSMo.

2. A person convicted of, pled guilty to or nolo contendere to any felony offense against persons as defined in chapter 565, RSMo; of any felony sexual offense as defined in chapter 566, RSMo; of any felony offense defined in section 568.020, 568.045, 568.050, 568.060, 569.020, 569.025, 569.030, 569.035, 569.040 [or], 569.050, 569.070, or 569.160, RSMo, or of an equivalent felony offense, or any violation of subsection 3 of section 198.070, RSMo, shall be disqualified from holding any direct-care

position in any public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

3. A person who has received a suspended imposition of sentence or a suspended execution of sentence following a plea of guilty to any of the disqualifying crimes listed in subsection 1 or 2 of this section shall remain disqualified.

[3.] 4. Any person disqualified pursuant to the provisions of subsection 1 or 2 of this section may [appeal] seek an exception to the employment disqualification [to] from the director of the department or the director's designee. The request shall be written and may not be made more than once every twelve months. The request may be granted by the director or designee if in the judgment of the director or designee a clear showing has been made by written submission only, that the person will not commit any additional acts for which the person had originally been disqualified for or any other acts that would be harmful to a patient, resident or client of a facility, program or service. The director or designee may grant [the appeal] an exception subject to any conditions deemed appropriate and failure to comply with such terms may result in the person again being disqualified. Decisions by the director or designee pursuant to the provisions of this subsection shall not be subject to appeal. The right to [appeal] request an exception



pursuant to this subsection shall not apply to persons [convicted of] who are disqualified due to being listed on the department of social services or department of health and senior services employee disqualification list pursuant to section 660.315, RSMo, nor to persons disqualified from employment due to any crime pursuant to the provisions of chapter 566 [or 568], RSMo, or section 565.020 [or 565.021], RSMo, section 568.020 or 568.060, RSMo, or section 569.025 or 569.070, RSMo.

5. An applicant for a direct care position in any public or private facility, day program, residential facility, or specialized service operated, funded, or licensed by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo, shall:

(1) Sign a consent form as required by section 43.540, RSMo, to provide written consent for a criminal record review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision, "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony charge and shall include any suspended imposition of sentence, any suspended execution of sentence, or any period of probation or parole; and

(3) Disclose if the applicant is listed on the child abuse and neglect registry as provided for in chapter 210, RSMo, the employee disqualification list as provided in section 660.315, RSMo, or the department of mental health disqualification

registry as provided for in this section.

6. Any person who has received a good cause waiver issued by the division of aging or division of senior services pursuant to subsection 9 of section 660.317, RSMo, shall not require an additional exception pursuant to this section in order to be employed in a long term care facility licensed pursuant to chapter 198, RSMo.

7. Any public or private residential facility, day program, or specialized service licensed, certified, or funded by the department shall, not later than two working days of hiring any person for a full-time, part-time, or temporary position to have contact with clients or residents or patients shall:

(1) Request a criminal background check as provided in section 43.540, RSMo;

(2) Make an inquiry to the department of social services and department of health and senior services whether the person is listed on the employee disqualification list as provided in section 660.315, RSMo; and

(3) Make an inquiry to the department of mental health whether the person is listed on the disqualification registry as provided in this section.

8. An applicant who knowingly fails to disclose his or her criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider knowingly hires a person to hold a direct care position if that persons has been disqualified

pursuant to the provisions of subsection 1 or 2 of this section.

[4.] 9. The department may maintain a disqualification registry and place on the registry the names of any persons who have been finally determined by the department to be disqualified pursuant to this section, or who have had administrative substantiations made against them for abuse or neglect pursuant to department rule. Such list shall reflect that the person is barred from holding any position in any public or private facility or day program operated, funded or licensed by the department, or any mental health facility or mental health program in which persons are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

630.210. 1. The director shall determine the maximum amount for services which shall be charged in each of the residential facilities, day programs or specialized services operated or funded by the department for full-time or part-time inpatient, resident or outpatient evaluation, care, treatment, habilitation, rehabilitation or other service rendered to persons affected by mental disorder, mental illness, mental retardation, developmental disability or drug or alcohol abuse. The maximum charge shall be related to the per capita inpatient cost or actual outpatient evaluation or other service costs of each facility, program or service, which may vary from one locality to another. The director shall promulgate rules setting forth a reasonable standard means test which shall be applied by all facilities, programs and services operated or funded by the

department in determining the amount to be charged to persons receiving services. The department shall pay, out of funds appropriated to it for such purpose, all or part of the costs for the evaluation, care, treatment, habilitation, rehabilitation or room and board provided or arranged by the department for any patient, resident or client who is domiciled in Missouri and who is unable to pay fully for services.

2. The director shall apply the standard means test annually and may make application of the test upon his own initiative or upon request of an interested party whenever evidence is offered tending to show that the current support status of any patient, resident or client is no longer proper. Any change of support status shall be retroactive to the date of application or request for review. If the persons responsible to pay under section 630.205 or 552.080, RSMo, refuse to cooperate in providing information necessary to properly apply the test or if retroactive benefits are paid on behalf of the patient, resident or client, the charges may be retroactive to a date prior to the date of application or request for review. The decision of the director in determining the amount to be charged for services to a patient, resident or client shall be final. Appeals from the determination may be taken to the circuit court of Cole County or the county where the person responsible for payment resides in the manner provided by chapter 536, RSMo.

3. The department shall not pay for services provided to a patient, resident or client who is not domiciled in Missouri

unless the state is fully reimbursed for the services; except that the department may pay for services provided to a transient person for up to thirty days pending verification of his domiciliary state, and for services provided for up to thirty days in an emergency situation. The director shall promulgate rules for determination of the domiciliary state of any patient, resident or client receiving services from a facility, program or service operated or funded by the department.

4. Whenever a patient, resident or client is receiving services from a residential facility, day program or specialized service operated or funded by the department, and the state, county, municipality, parent, guardian or other person responsible for support of the patient, resident or client fails to pay any installment required to be paid for support, the department or the residential facility, day program or specialized service may discharge the patient, resident or client as provided by chapter 31, RSMo. The patient, resident or client shall not be discharged under this subsection until the final disposition of any appeal filed under subsection 2 of this section.

5. The standard means test may be waived for a child in need of mental health services to avoid inappropriate custody transfers to the division of family services. The department of mental health shall notify the child's parent or custodian that the standard means test may be waived.

660.317. 1. For the purposes of this section, the term

"provider" means any person, corporation or association who:

- (1) Is licensed as an operator pursuant to chapter 198, RSMo;
- (2) Provides in-home services under contract with the department;
- (3) Employs nurses or nursing assistants for temporary or intermittent placement in health care facilities; or
- (4) Is an entity licensed pursuant to chapter 197, RSMo[;
- (5) Is a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department of mental health].

2. For the purpose of this section "patient or resident" has the same meaning as such term is defined in section 43.540, RSMo.

3. Beginning August 28, 1997, not later than two working days of hiring any person for a full-time, part-time or temporary position to have contact with any patient or resident the provider shall, or in the case of temporary employees hired through an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

- (1) Request a criminal background check as provided in section 43.540, RSMo. Completion of an inquiry to the highway patrol for criminal records that are available for disclosure to a provider for the purpose of conducting an employee criminal records background check shall be deemed to fulfill the provider's duty to conduct employee criminal background checks

pursuant to this section; except that, completing the inquiries pursuant to this subsection shall not be construed to exempt a provider from further inquiry pursuant to common law requirements governing due diligence; and

(2) Make an inquiry to the department of social services, whether the person is listed on the employee disqualification list as provided in section 660.315.

4. When the provider requests a criminal background check pursuant to section 43.530, RSMo, the requesting entity may require that the applicant reimburse the provider for the cost of such record check.

5. An applicant for a position to have contact with patients or residents of a provider shall:

(1) Sign a consent form as required by section 43.540, RSMo, so the provider may request a criminal records review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony charge and shall include any suspended imposition of sentence, any suspended execution of sentence or any period of probation or parole; and

(3) Disclose if the applicant is listed on the employee disqualification list as provided in section 660.315.

6. An applicant who knowingly fails to disclose his criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class

A misdemeanor if the provider knowingly hires a person to have contact with patients or residents and the person has been convicted of, pled guilty to or nolo contendere in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or section 568.020, RSMo.

7. The highway patrol shall examine whether protocols can be developed to allow a provider to request a statewide fingerprint criminal records review check through local law enforcement agencies.

8. A provider may use a private investigatory agency rather than the highway patrol to do a criminal history records review check, and alternatively, the applicant pays the private investigatory agency such fees as the provider and such agency shall agree.

9. The department of social services shall promulgate rules and regulations to waive the hiring restrictions pursuant to this section for good cause. For purposes of this section, "good cause" means the department has made a determination by examining the employee's prior work history and other relevant factors that such employee does not present a risk to the health or safety of residents.

Section 1. The department of social services, shall:

(1) Submit amendments to state plans and seek available waivers from the federal Department of Health and Human Services



to enhance federal reimbursement and federal administrative reimbursement for foster care and adoption assistance under Title IV-E of the Social Security Act and Title XIX of the Social Security Act; and

(2) Take the necessary steps to qualify the state for receipt of any federal block grant moneys which are or will be available for foster care and adoption assistance.

Section 2. 1. If the location or identity of the natural parent or parents of a child in the custody of the division is unknown, the division of family services, or its successor division, shall utilize all reasonable and effective means available to conduct a diligent search for the biological parent or parents of such child.

2. For purposes of this section, "diligent search" means the efforts of the division, or an entity under contract with the division, to locate a biological parent whose identity or location is unknown, initiated as soon as the division is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

Section 3. 1. The department of mental health, in conjunction with the department of social services, shall prepare a plan to address the need for mental health services and supports for:

(1) All of the cases in the custody of the department of social services that involve children in the system due

exclusively to a need for mental health services, and where there is no instance of abuse, neglect, or abandonment; and

(2) Children or persons seventeen years of age who are determined by the court to require mental health services under subdivision (5) of subsection 1 of section 211.181, RSMo.

2. Such plan shall include:

(1) An analysis of federal funding, including waivers, that may be used to support the needed mental health services and supports;

(2) An analysis of the budgetary and programmatic impact of meeting the needs of the children and persons seventeen years of age for mental health services and supports; and

(3) An analysis of the feasibility, including time frames, of securing federal funds for the support of the needed mental health services and supports.

3. The plan required in this section shall be completed on or before January 1, 2004. The directors of the department of social services and the department of mental health shall submit a copy of the plan to the governor, the president pro tem of the senate, and the speaker of the house of representatives.

Section 4. For purposes of proceedings and investigations conducted pursuant to chapter 211, RSMo, children shall be promptly returned to the care and custody of a nonoffending biological parent if:

(1) The biological parents have continuously maintained joint domicile for a period of at least six months prior to the

alleged incident or the parents are maintaining separate households; and

(2) A preponderance of the evidence indicates that only one of the parents is the subject of an investigation of abuse or neglect; and

(3) The nonoffending parent does not have a history of criminal behavior, drug or alcohol abuse, child abuse or child neglect, domestic violence, stalking, or full orders of protection entered against them within the past five years; and

(4) The biological parents are maintaining joint domicile and the offending parent is removed from the home voluntarily or involuntarily, or the biological parents live separately and the child is removed from the home of the custodial parent; and

(5) A nonoffending parent requests custody of the child and agrees to cooperate with any orders of the court limiting contact or establishing visitation with the offending parent and the nonoffending parent complies with such orders.

When the biological parents maintain joint domicile, the offending parent shall be presumed to have given permission for the nonoffending parent to live in the household. The court shall order temporary or permanent change of custody of the child to the nonoffending parent if the nonoffending parent does not have legal custody of the child, and shall order modifications to any public assistance benefits which may be required to assure the well-being of the child.

[26.740. 1. There is hereby created within the office of the governor a "Child Abuse, Custody and Neglect Commission" which shall evaluate the laws and rules relating to child abuse, neglect, child custody and visitation and termination of parental rights and shall make recommendations on further action or legislative remedies, if any, to be taken as necessary. The commission shall review and recommend standardized guidelines for judicial review of what constitutes the best interest of the child.

2. The child abuse, custody and neglect commission shall be composed of twelve members to be appointed by the governor, including a county prosecutor, a law enforcement officer, a juvenile officer, a certified guardian ad litem, a juvenile court judge, a member of the clergy, a psychologist, a pediatrician, an educator, the chairman of the children's services commission, a division of family services designee, and one citizen of the state of Missouri, chosen to reflect the racial composition of the state, to serve four-year terms and of the members first appointed, four shall serve for a term of two years, four shall serve for a term of three years, and four shall serve for a term of four years.

3. The commission shall make its first report to the governor and the general assembly by February 1, 2002, and any subsequent reports shall be made to the governor, the chief justice of the supreme court and the general assembly as necessary.

4. All members shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

5. The office of the governor shall provide funding, administrative support, and staff for the effective operation of the commission.

6. This section shall expire on August 28, 2004.]

[43.521. Sections 43.500 to 43.530 shall not require fingerprinting of juvenile offenders or reporting of information pertaining to a proceeding pursuant to the

Missouri juvenile code, except in those cases where a juvenile is certified to the circuit court to stand trial as an adult.]

[210.937. The provisions of sections 210.900 to 210.936 shall terminate on January 1, 2004.]

[211.321. 1. Records of juvenile court proceedings as well as all information obtained and social records prepared in the discharge of official duty for the court shall not be open to inspection or their contents disclosed, except by order of the court to persons having a legitimate interest therein, unless a petition or motion to modify is sustained which charges the child with an offense which, if committed by an adult, would be a class A felony under the criminal code of Missouri, or capital murder, first degree murder, or second degree murder or except as provided in subsection 2 of this section. In addition, whenever a report is required under section 557.026, RSMo, there shall also be included a complete list of certain violations of the juvenile code for which the defendant had been adjudicated a delinquent while a juvenile. This list shall be made available to the probation officer and shall be included in the presentence report. The violations to be included in the report are limited to the following: rape, sodomy, murder, kidnapping, robbery, arson, burglary or any acts involving the rendering or threat of serious bodily harm. The supreme court may promulgate rules to be followed by the juvenile courts in separating the records.

2. In all proceedings under subdivisions (1) and (2) of subsection 1 of section 211.031, the records of the juvenile court as well as all information obtained and social records prepared in the discharge of official duty for the court shall be kept confidential and shall be open to inspection only by order of the judge of the juvenile court or as otherwise provided by statute. In all proceedings under subdivision (3) of subsection 1 of section 211.031 the records of the juvenile court as well as all information obtained and social records prepared in the discharge of official duty

for the court shall be kept confidential and may be open to inspection without court order only as follows:

(1) The juvenile officer is authorized at any time:

(a) To provide information to or discuss matters concerning the child, the violation of law or the case with the victim, witnesses, officials at the child's school, law enforcement officials, prosecuting attorneys, any person or agency having or proposed to have legal or actual care, custody or control of the child, or any person or agency providing or proposed to provide treatment of the child. Information received pursuant to this paragraph shall not be released to the general public, but shall be released only to the persons or agencies listed in this paragraph;

(b) To make public information concerning the offense, the substance of the petition, the status of proceedings in the juvenile court and any other information which does not specifically identify the child or the child's family;

(2) After a child has been adjudicated delinquent pursuant to subdivision (3) of subsection 1 of section 211.031, for an offense which would be a felony if committed by an adult, the records of the dispositional hearing and proceedings related thereto shall be open to the public to the same extent that records of criminal proceedings are open to the public. However, the social summaries, investigations or updates in the nature of presentence investigations, and status reports submitted to the court by any treating agency or individual after the dispositional order is entered shall be kept confidential and shall be opened to inspection only by order of the judge of the juvenile court;

(3) As otherwise provided by statute;

(4) In all other instances, only by order of the judge of the juvenile court.

3. Peace officers' records, if any are kept, of children shall be kept separate from the records of persons seventeen years of age or over and shall not be open to inspection or their contents disclosed, except by order of the court. This subsection does not apply to children who are transferred to courts of

general jurisdiction as provided by section 211.071 or to juveniles convicted under the provisions of sections 578.421 to 578.437, RSMo. This subsection does not apply to the inspection or disclosure of the contents of the records of peace officers for the purpose of pursuing a civil forfeiture action pursuant to the provisions of section

195.140, RSMo.

4. Nothing in this section shall be construed to prevent the release of information and data to persons or organizations authorized by law to compile statistics relating to juveniles. The court shall adopt procedures to protect the confidentiality of children's names and identities.

5. The court may, either on its own motion or upon application by the child or his representative, or upon application by the juvenile officer, enter an order to destroy all social histories, records, and information, other than the official court file, and may enter an order to seal the official court file, as well as all peace officers' records, at any time after the child has reached his seventeenth birthday if the court finds that it is in the best interest of the child that such action or any part thereof be taken, unless the jurisdiction of the court is continued beyond the child's seventeenth birthday, in which event such action or any part thereof may be taken by the court at any time after the closing of the child's case.

6. Nothing in this section shall be construed to prevent the release of general information regarding the informal adjustment or formal adjudication of the disposition of a child's case to a victim or a member of the immediate family of a victim of any offense committed by the child. Such general information shall not be specific as to location and duration of treatment or detention or as to any terms of supervision.

7. Records of juvenile court proceedings as well as all information obtained and social records prepared in the discharge of official duty for the court shall be disclosed to the child fatality review panel reviewing the child's death

pursuant to section 210.192, RSMo, unless the juvenile court on its own motion, or upon application by the juvenile officer, enters an order to seal the records of the victim child.]

**CORRECTED**

Section 5. If any provision of this act is found by a court of competent jurisdiction to be invalid or unconstitutional it is the stated intent of the legislature that the legislature would have approved the remaining portions of the act, and the remaining portions of the act shall remain in full force and effect.

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